

Agenda

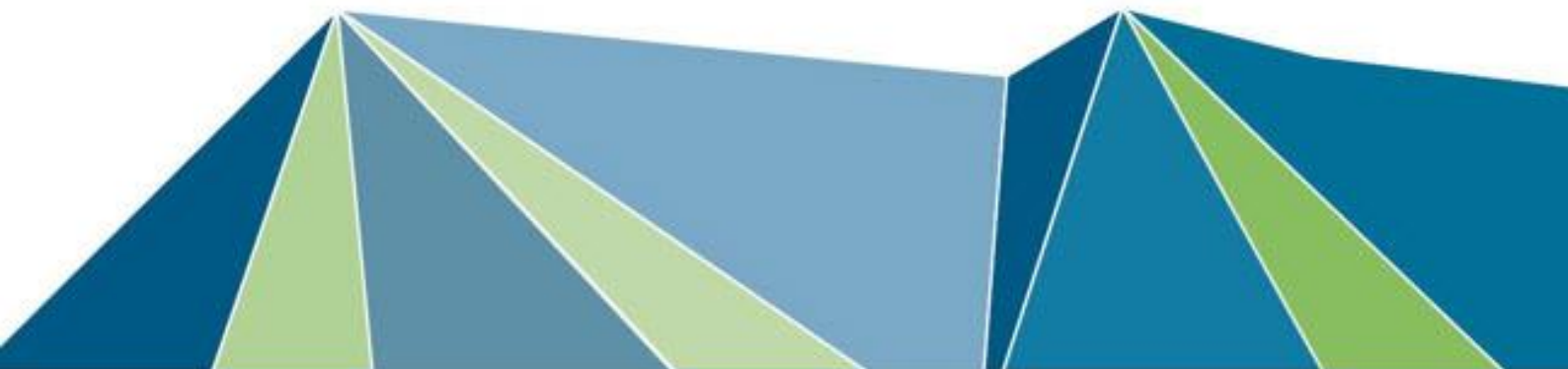
Ordinary Meeting **25 July 2024**

An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **25 July 2024 commencing at 9am.**

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

Paul Hickey
General Manager

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



Ethical Decision Making and Conflicts of Interest

A guide for Councillors, Council employees and community representatives

Ethical decision making

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

Conflict of Interest

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

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

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

The test for a conflict of interest

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

Identifying problems

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

Disclosure and participation in meetings

Pecuniary Interests

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

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

Non-pecuniary Interests

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

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

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

Deputations to Council – Guidelines

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

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

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

Recording and Livestreaming of Council Meetings

- The meeting (with the exception of the confidential session) is being livestreamed and recorded for on-demand viewing via Council's website (ballina.nsw.gov.au/agendas-and-minutes) 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 27 June 2024 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 June 2024.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2022/569 - 449-455 River Street - Mixed Use Development

8. Planning and Environmental Health Division Reports

8.1 DA 2022/569 - 449-455 River Street - Mixed Use Development

Applicant	Planners North
Property	Lot: 3 DP: 526277, Lot: 1 DP: 530616, Lot: 2 DP: 530616 - 449 and 455 River Street WEST BALLINA
Proposal	<p>Construction of a mixed use development comprising of the following:</p> <p>44 live/work units each consisting of:</p> <ul style="list-style-type: none">• Ground floor business premises/office premises floor space;• Upper floor/s dwelling, totalling 44 dwellings. <p>10 light industry units.</p> <p>3 business premises/office premises units.</p> <p>A commercial core consisting of:</p> <ul style="list-style-type: none">• ground floor food & drink premises;• ground floor light industry/business premises; and• first floor commercial premises/office premises; <p>Associated car parking, site access, infrastructure and landscaping works.</p>
Zoning and Planning Instrument	The land is zoned E3 Productivity Support zone under the provisions of the Ballina LEP 2012.

Introduction

Council is in receipt of development application DA 2022/569 (PAN-270005) for the construction of a mixed-use development made up of business, light industry and residential land uses, including 44 live/work units. The development also includes associated car parking, site access, infrastructure and landscaping works.

The development is proposed on land at 449-455 River Street West Ballina over an area of 10,725.8m². The site is generally known as the Cedars caravan park site.

The land is located on the corner of River Street and Barlows Road and is adjacent to an existing car dealership and landscape supplies business (to the west of the site).

The locality consists of a mixture of commercial, industrial and residential land uses.

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



Figure 1: Site Aerial Photo (subject land comprises 455 and 449 River Street marked with a yellow dot).



Figure 2: Subject Site (Aerial view with land shown shaded red) – extract from SEE

The proposed development includes four blocks of buildings with various mixes of business, light industrial and residential uses, within building up to three storeys in height.

The proposal includes a variation to the applicable height of buildings standard.

A full assessment of the proposed development, including address of key considerations, is set out in the 4.15 assessment contained in Attachment 1.

8.1 DA 2022/569 - 449-455 River Street - Mixed Use Development

The layout and architectural style of the development can be seen in the development plan set contained in Attachment 2.

Site landscape plans are contained in Attachment 3.

This application has been reported to the elected Council for determination as it is a scale and form of mixed use development not otherwise evident in Ballina Shire. Notably though, mixed use forms of development are consistent with the intended planning outcomes for the West Ballina area, and particularly along River Street.

DA 2022/330 is related to DA 2022/569. Under DA 2022/330 the demolition of existing structures associated with the Cedars caravan park, removal of vegetation, bulk earthworks and associated infrastructure was approved in September 2023.

This approval enables the clearing of the site and filling in readiness for a new land use.

The approved works under DA 2022/330 have not been commenced and this DA lapses on 11 September 2028.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil.

Public Exhibition

DA 2022/569 was publicly exhibited between 22 February 2023 and 24 March 2023. The exhibition period included adjoining owner notifications.

Public exhibition and notification was undertaken in accordance with Council's Community Participation Plan.

Ten submissions were received from members of the public (two expressing support and eight raising concerns and/or objection). Copies of the submissions received are contained in Attachment 4. An outline of the submissions and responses to the matters raised is contained in the 4.15 assessment in Attachment 1.

Agency submissions are contained in Attachment 5 and are also addressed in the 4.15 assessment report.

Applicable Planning Instruments

The development is subject to the Ballina Local Environmental Plan 2012 and the Ballina Shire Development Control Plan 2012 as well as a number of State Environmental Planning Policies.

A full assessment of the proposal against statutory provisions applying to the proposal is set out in the 4.15 assessment in Attachment 1.

In summary with respect to the LEP and DCP, the proposed development is permissible in the E3 Productivity Support zone and predominately aligns with the provisions of the DCP including those relating specifically to the West Ballina enterprise Corridor area.

Report

Matters for Consideration

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

The following provides a summary of key aspects of the assessment for the consideration of the Council.

This report should be read in conjunction with the attached Section 4.15 assessment report (Attachment 1). The 4.15 assessment report addresses the statutory planning provisions applying to the development and foreshadows a number of conditions of consent to be applied (in the event consent is granted).

Plans of the proposed development are included as Attachments 2 and 3.

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

State Environmental Planning Policies

The proposed development is compliant with the provisions of applicable State Environmental Planning Policies and/or conditions of consent can be applied to suitably manage matters arising in relation to the requirements of the SEPPs.

There are some variances in the design of the development relative to the apartment design guide (under the Housing SEPP). These have been assessed as acceptable having regard for the guide's design principles and intent. A full assessment of the proposed development in relation to the apartment design guide is contained in an attachment to the 4.15 assessment. Report (Attachment 1).

Ballina Local Environmental Plan 2012

The proposed development is compliant is consistent with the aims and objectives of the LEP and the E3 Productivity Support zone.

The proposal does incorporate a variation to clause 4.3 – Height of buildings, with part of the roof lines on building blocks 1, 2 and 4 exceeding the maximum building height (12m AHD) by up to 150mm.

The variation is addressed in detail in Attachment 1. By way of summary the building height standard of 10m (12m AHD) is exceeded by up to 150mm (1.5%) in several locations on the site equating to a total area of 723m² across the buildings.

The justification for the variation is the achievement of three level buildings inclusive of a 3.3m floor to ceiling height in the commercial premises at ground floor, along with a sloped roof form.

Figure 3 shows the extent of the variation via the black shading within the red veil over the top of the buildings.

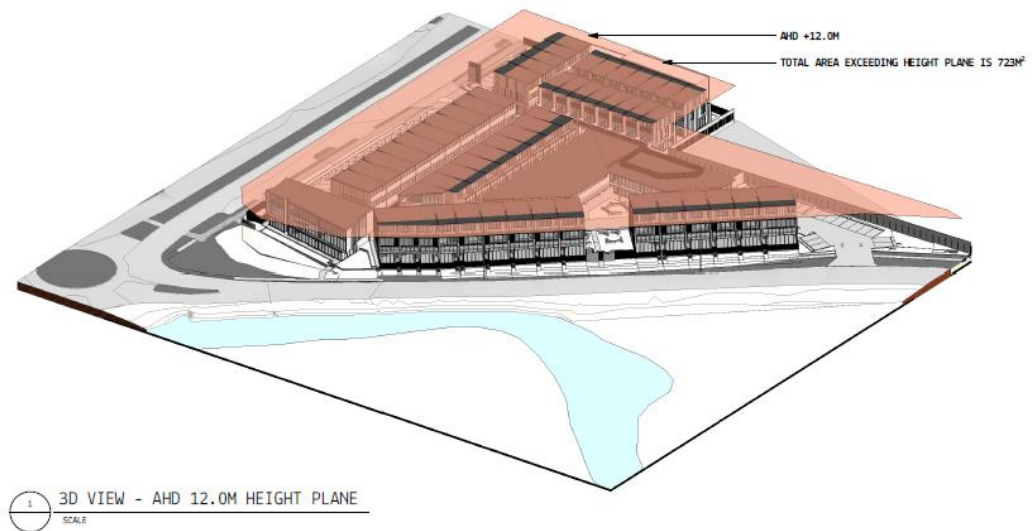


Figure 3: Scale of Proposed Building Height Variation (TPO.60).

The variation to the building height standard has been assessed as relatively minor and acceptable.

The extent of the variation is modest in scale, the variation points are set back from public roads and are mostly located centrally within the development site, there is no overshadowing on surrounding sites arising from the variation. Compliance with the standard would impact adversely on the ground floor ceiling height but strict compliance with the standard does not significantly alter the overall bulk and form of the development.

The objectives of the building height standard are achieved by the development notwithstanding the variation in overall height.

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

No draft instruments apply to the proposed development.

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

Chapters 2, 2a, 2b, 6 and 8 of the DCP apply to the proposed development.

The development has been assessed as consistent with the provisions of the DCP (with variances justified) and conditions of consent can be applied to address potential impacts associated with the development.

With respect to flooding and Chapter 2b of the DCP, the subject land is mapped as flood prone. A minimum fill height of RL 2.1m AHD applies to the development with a design floor level of 2.4m AHD.

The proposed development has been assessed under the provisions of Chapter 2b and it has been concluded that the development is not expected to result in significant adverse impacts associated with Richmond River flooding.

Importantly with respect to filling of the site and flood impacts, DA 2022/330 which enables the filling of the site has previously been approved. This approval enables filling of the site to 2.1m AHD in the area of the proposed buildings consistent with Council's flood planning policy. The impact of this filling was assessed as part of that DA and it was concluded that the filling of the site has minimal impact on the surrounding flood plain. Essentially the mixed use development does not impact this conclusion as it is reliant on the already approved fill under DA 2022/330.

In relation to the West Ballina Enterprise Corridor under DCP Chapter 6d, the proposed mix of uses are consistent with the desired land uses expressed for this precinct. The development is consistent with the site specific DCP provisions applying to this precinct.

Notably car parking and stormwater management have been assessed as compliant with Council's DCP provisions.

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

No planning agreements apply to the development.

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

No matters of significance identified.

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

The proposal is not expected to result in adverse impacts to the environment or broader locality, subject to compliance with conditions.

4.15 (1) (c) – The suitability of the site for the development

The site has been assessed as suitable for the proposed mixed use development. In particular it is consistent with the objectives of the E3 Productivity Support zone and the precinct specific DCP provisions applying in the West Ballina Enterprise Corridor.

4.15 (1) (d) Any submission made in accordance with this Act or the Regulations?

Ten submissions from members of the public were received, with two of these expressing support for the development and eight indicating objection. Key issues raised included flood impacts, stormwater impacts, traffic congestion, pedestrian infrastructure, impacts on the environment (including flora and fauna), affordable housing, the scale and design of the development, open space and amenity, car parking and infrastructure capacity.

Each of the public submissions received is addressed in the 4.15 assessment in Attachment 1. Copies of submissions are contained in Attachment 4.

With respect to Government agencies, Council received submissions from Transport for NSW and the Department of Planning and Environment (Water).

Essential energy also made submissions to Council during the assessment of the application.

There are no matters associated with the agency submissions that prevent the development from being granted consent subject to conditions.

Copies of the submissions from agencies are contained in Attachment 5.

4.15(1) (e) The Public Interest

The proposal will result in a well located mixed use development that provides housing as well as opportunities for a variety of commercial and light industry uses. Overall the development is consistent with applicable planning provisions of State and local instruments and is considered to be in the public interest.

Options

Grant Consent – Council can approve the development application for the mixed use development, subject to application of conditions foreshadowed in the 4.15 assessment as well as standard planning, environmental health, civil and building conditions for this type of development.

This would be on the basis that the Council is satisfied that the proposal has demonstrated that the objectives of the zone and objectives of the building height standard will be achieved despite the variation to the maximum building height.

Refuse Consent – Council could refuse the application for specified reasons. Reasons for refusal could relate to the departure from the maximum building height being considered excessive and/or the proposal being deemed inconsistent with aspects of the planning framework and inconsistent with the objectives of applicable standards or the objectives of the zone.

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

Conclusion

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

The proposal is suitable within the locality, and it has been adequately demonstrated that the objectives of the building height standard can be achieved, despite the variation to Clause 4.3 height of buildings.

Having regard to the outcomes of the assessment undertaken, approval with conditions is recommended.

RECOMMENDATIONS

1. That Council endorses the proposed variation to Clause 4.3 Height of buildings development standard under the Ballina Local Environmental Plan 2012 to enable a maximum building height of up to 12.15m AHD (equating to a variance of 1.5%) for the reasons outlined in this report.
2. That Development Application 2022/569 for the construction of a mixed use development at 449-455 River Street West Ballina comprising of the following:

44 live/work units each consisting of:

- *Ground floor business premises/office premises floor space;*
- *Upper floor/s dwelling, totalling 44 dwellings.*

10 light industry units.

3 business premises/office premises units.

A commercial core consisting of:

- *ground floor food & drink premises;*
- *ground floor light industry/business premises; and*
- *first floor commercial premises/office premises;*

Associated car parking, site access, infrastructure, and landscaping works.

be **APPROVED** subject to application of conditions foreshadowed in the 4.15 assessment report in Attachment 1 as well as standard planning, environmental health, civil and building conditions for this type of development.

Attachment(s)

1. DA 2022/569 Section 4.15 Assessment [⇨](#)
2. DA 2022/569 Development Plans [⇨](#)
3. DA 2022/569 Landscape Concept Plan - Communal Space [⇨](#)
4. DA 2022/569 Public Submissions [⇨](#)
5. DA 2022/569 Agency Submissions [⇨](#)

8.2 Sharpes Beach Car Park Upgrade - Design

8.2 Sharpes Beach Car Park Upgrade - Design

Section Open Spaces

Objective To review design options for the Sharpes Beach Car Park Upgrade

Background

Council resolved at the 23 November 2023 Ordinary meeting to endorse the Draft Sharpes Beach Car Park Upgrade Concept for public exhibition.

A draft concept plan was exhibited for a period of eight weeks from 1 December 2023 to 31 January 2024.

Key feedback from the submissions and a recommended concept plan was presented to the 24 April 2024 Ordinary meeting where Council resolved to defer the matter pending a report on further options.

Matters arising at the April 2024 Ordinary meeting related to car parking, layout and design, traffic circulation and trees.

At the 27 June 2024 Ordinary meeting, Council resolved to confirm Option 4 (Attachment 1) as the preferred option.

Council also resolved to receive a report back to the July 2024 meeting, to further consider potential improvements to option 4 that provide improved car parking outcomes and the retention of the Norfolk Pines.

This report outlines possible adjustments to Option 4 to provide more car parks within the footprint of the Option 4 design.

There are many possible variances to the design with different advantages and disadvantages.

In this regard, a Councillor briefing is scheduled to be undertaken on 22 July 2024 to enable discussion of the design prior to the July Council meeting.

This report sets out an Option 4a as an alternative should Council wish to prioritise additional car parking over other design features.

Key Issues

- Stakeholder and community engagement
- Design principles
- Retention of Norfolk Island Pine trees
- Number of car parks
- Grant funding and construction timeframes

Discussion

Option 4 as presented to Council's June 2024 Ordinary meeting retained the existing Norfolk Island Pine trees along The Coast Road while extending the carpark south into the regenerating coastal vegetation to enable parking for 67 vehicles (includes: 58 Standard, one long vehicle, four motorcycle, two spaces for persons with a disability).

Other considerations underpinning this design option included:

- Softening of the hardscape/bitumen with landscape plantings
- Maximising of tree protection opportunities along The Coast Road
- Creating an improved separation between the car park and coastal recreation path
- Provision for improved drainage and stormwater outcomes including better management of water sheet flow across the car park into the dunal system.

With consideration for additional car parking spaces with retention of the Norfolk Island Pine tree along the Coast Road, an additional 15 standard car parking spaces have been identified as a potential modification to Option 4. This is presented as Option 4a (Attachment 2).

This modification includes parking for 73 standard vehicles, one long vehicle, four motorcycles, as well as two spaces for persons with a disability.

To enable the additional parking spots, the following changes in the design are required:

- Removal of landscape and shading elements
- Removal of a pedestrian node adjacent to the coastal recreation path (including removal of potential shower(s) and seating)
- Adjustment in stormwater management design elements.

The option of changing the configuration of the southern edge of the car park to fit more standard car parking spaces was examined. This is not recommended as this is where a long vehicle parking space is proposed in the design.

Provision for at least one designated long vehicle parking space is considered to be important given the popularity of Sharpes Beach for surf school uses.

Other key elements of Option 4 have been retained in the Option 4a design.

Delivery Program Strategy / Operational Plan Activity

This project is listed in the capital works expenditure plan under Council's current Delivery Program and Operational Plan.

Community Engagement Strategy

Exhibition of the plan has been carried out in accordance with the community engagement strategy. Further engagement with the community will be carried out in association with a development application for the works.

8.2 Sharpes Beach Car Park Upgrade - Design

Financial / Risk Considerations

A budget of \$1.3m is currently assigned to this project with \$1.05m in funding approved through the NSW Government Regional Tourism Activation Fund.

This grant funding was to be expended by 30 June 2024 however Council has obtained an extension to 31 October 2025.

It is important that Council progresses this plan in a timely manner to avoid putting this grant funding at risk, particularly as development consent is required, as well as a review of lease arrangements with the landholder, having regard for the endorsed redevelopment plan.

It is also likely that construction costs will exceed the current budget and ongoing delays may result in further cost increases.

At this stage staff are working based on a cost of around \$2m as the basis of achieving the core elements of the plan.

Also of note is accessible viewing platform infrastructure east of the coastal recreation path, whilst planned for, is likely to have significant cost attached to it and will be subject to a detailed risk assessment.

Further consideration of funding and project staging will be required as detailed design, planning processes and costings progress.

The aim, at present, is to confirm an agreed plan, formalise this with the landowner and then seek development consent for the overall plan.

Options

Based on the June resolution of Council, the primary options available are to proceed with Option 4, proceed with Option 4a or identify an alternate design based on Option 4 as the basis for progression of the project.

A difficulty with this project is that there are a significant number of variations to the detail of any design. There will also likely be some adjustments as the detailed design and development application processes advance.

Given this, it is most important for Council to set the overarching direction or principles for the detailed design and construction process to follow.

The staff recommendation is to proceed with Option 4 on the basis that it balances the following design principles:

- Bitumen surfaced car park incorporated approximately 58 standard car parking spaces.
- Retention of the Norfolk Island Pine trees along The Coast Road.
- Viewing area of the beach and ocean accessible to persons with a disability.
- Separation between the coastal recreation path and the car park, inclusive of pedestrian areas adjacent to the coastal recreation path.
- Softening of the bitumen car park area with interspersed vegetation plantings and landscape elements.

8.2 Sharpes Beach Car Park Upgrade - Design

- Stormwater design that improves management of sheet flow from the car park into the dunal system (hence reducing erosion risk).
- Provision for one designated long vehicle parking space.
- Provision of an amenities block including toilets, showers, water, bicycle parking and storage for paid lifeguard patrols.

If Council prefers additional car parking having regard for the need to alter landscape and pedestrian design elements, then Option 4a or a minor variation of this design is the suggested approach.

RECOMMENDATION

That Council endorses Option 4, as per Attachment 1 to this report, as the preferred design option for the redevelopment of the Sharpes Beach Park

Attachment(s)

1. Sharpes Beach Car Park - Option 4 [⇨](#)
2. Sharpes Beach Car Park - Option 4a [⇨](#)

8.3 Planning Proposal - General Amendments - Ballina LEP 2012

Section	Strategic Planning
Objective	To outline proposed amendments to the Ballina Local Environmental Plan 2012 arising from a periodic review of the plan.

Background

Council regularly undertakes reviews of the Ballina Local Environmental Plan 2012 (Ballina LEP 2012) to identify minor improvements that can be made and ensure that the plan is operating efficiently.

This review seeks to make a range of low impact, but timely, amendments to the Ballina LEP 2012, as detailed within this report and in the attached planning proposal (Attachment 1).

The purpose of this report is to seek direction from Council on the progression of a planning proposal to undertake the identified changes to the LEP.

Key Issues

- Function and operation of Ballina Local Environmental Plan 2012
- Minor adjustments to the content of the LEP

Discussion

This planning proposal seeks to amend the Ballina Local Environmental Plan (LEP) 2012 to address a range of routine or minor planning issues, improve the interpretation and operation of the plan and ensure the plan is contemporary.

The amendment relates to several issues, as summarised in Table 1.

Table 1: Summary of Proposed LEP Amendments

Item	Location	Affects	Details
1	Heritage Wall, Cumbalum	Map: HER_005B HER_005D	Amend reference to Heritage Item 197 within Part 1 of Schedule 5 to the LEP to update the relevant property description. Update Heritage Map sheets to show the item on the correct property.
2	Lennox Head and Alstonville Village Centres	CI 7.13 Map: New Active Frontages Maps	Amend clause 7.13 to replicate active frontage provisions that apply in Ballina CBD to the Lennox Head and Alstonville village centres to promote ground floor uses that attract pedestrian traffic.
3	Shire-wide	CI 4.3A	Amend clause 4.3A - Exceptions to height of buildings to address sites where existing ground levels are higher than the level shown on the Building Height Allowance Map, providing that the maximum height of a building to which this clause applies is

8.3 Planning Proposal - General Amendments - Ballina LEP 2012

Item	Location	Affects	Details
			measured from the higher of either the existing ground level or the minimum level (AHD) permitted for that land on the map.
4	Shire-wide	CI 7.9	Amend clause 7.9 - Rural and nature-based tourism development to include a reference to agritourism.
5	Shire-wide	E1 Zone	Remove <i>dwelling houses</i> and <i>secondary dwellings</i> from the list of land uses permitted with development consent and include them in the list of prohibited uses.
6	Tintenbar	Map: DWE_005B	Remove land at Tintenbar from the Dwelling Opportunities Reinstatement Map.
7	Avalon Estate, 17 Millbrook Terrace, Wollongbar (Lot 129 DP 1276352)	Map: LZN_001B LSZ_001B HOB_001 LAP-001	<p>Rezone the parts of the lot that are currently “deferred matter” to C3 Environmental Management. A small portion of R3 Medium Density zoned land on the western boundary of the lot is also proposed to be zoned C3.</p> <p>This would provide for the subdivision of the land to include one lot containing all of the area zoned C3 Environmental Management, which would then have a dwelling entitlement.</p> <p>Subsequent map amendments proposed to:</p> <ul style="list-style-type: none"> • show land as included on Land Application Map; • apply a 40ha minimum lot size to the rezoned part of the site; • apply an 8.5m maximum building height to the rezoned part of the site.
8.	Shire-wide	CI 4.1B CI 7.17 Sch 1 – Items 1A, 8 & 12	<p>Align LEP provisions to SEPP (Housing) 2021 in relation to dual occupancy development.</p> <p>SEPP (Housing) 2021 was recently amended to provide that dual occupancy development is now permitted with development consent in Zone R2 Low Density Residential across the State.</p> <p>Amendment relate to strata subdivision of dual occupancy and removal of redundant provisions from the LEP.</p>
9	20 & 22 River Drive, East Wardell	Map: LZN_003A LSZ_003A	Rezone the properties from RU2 Rural Landscape to R2 Low Density Residential and apply a minimum lot size of 1,200m ² , consistent with adjoining residential area.
10	Lot 10 DP 12997404 Ascot Place, Ballina	Maps: LZN_006C LSZ_006C	Amend the E4 General Industrial zone boundary and the minimum lot size map to align with property boundary.
11	Shire-wide	CI 4.2B	Amend wording in clause to clarify intent and application of provision relates changes in lot boundaries in rural and conservation zones.
12	Shire-wide	Various zones	Prohibit <i>advertising structures</i> in all zones. Business and building identification signs would continue to be permitted.

Item 1: Heritage Wall Cumbalum

Issue and Justification

Heritage item I97 relates to a dry-stone wall located on land at Cumbalum. The listing within Part 1 of Schedule 5 of BLEP 2012 describes the location of the wall as “Albert Sheather Lane” and Lot 2 DP 1171927.

The location of the item is shown in the extracts from the LEP Heritage Map (Map Sheets HER_005B & HER_005D) in Figure 1 below.

The property has subsequently been subdivided as part of the Banyan Hill development, such that the dry-stone wall is now located on a residue lot, known as Lot 363 DP 1273203.

The current listing and the current mapping, therefore, do not identify the correct property.

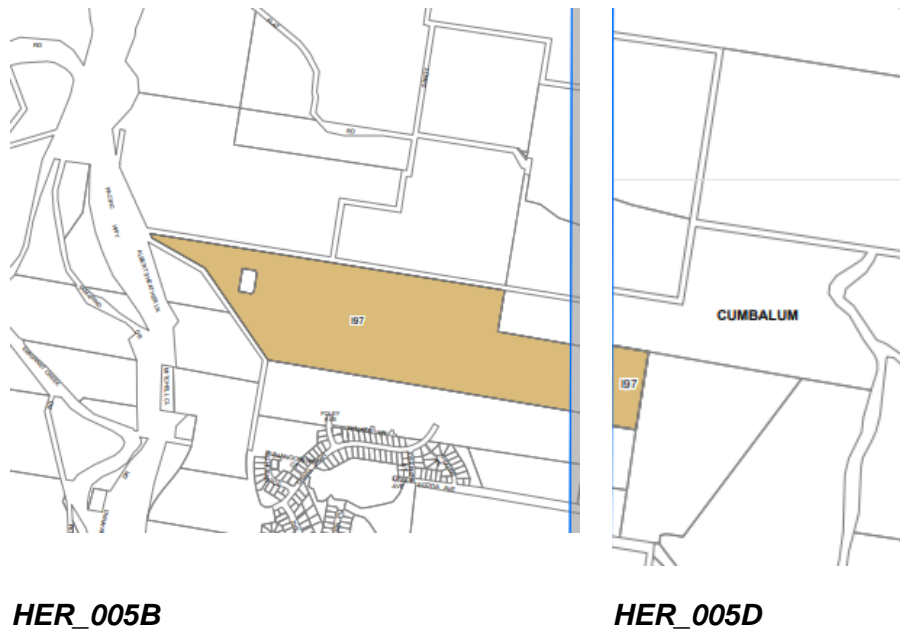


Figure 1: Current LEP Heritage Map

Proposed Amendment

It is proposed that the wording for Item I97 be amended within Part 1 of Schedule 5 to read:

*Cumbalum Dry stone wall Albert Sheather Lane Part Lot 363 DP 1273203
Local I97*

It is also to amend LEP Maps HER_005B and HER_005D to show the heritage listing in relation to the land shown below in Figure 2:

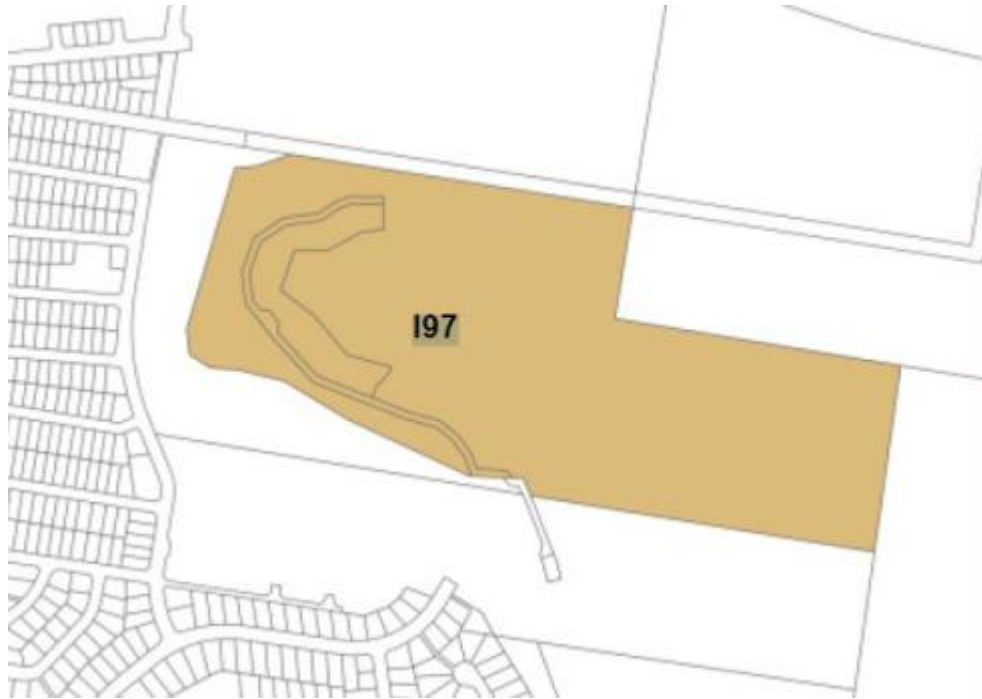


Figure 2: Proposed Heritage Map Amendment

This amendment will also assist in enabling complying development for housing on a greater range of lots in the Banyan Hill estate.

Item 2: Lennox Head and Alstonville Village Centre – Active Frontages

Issue and Justification

Clause 7.13 of the LEP applies to land located within the Ballina Central Business District that is zoned E2 Commercial Centre and identified as “Active Frontage” on the *Active Frontages Map*. The objective of the clause is to promote uses of the land that attract pedestrian traffic at street level by requiring certain nominated land uses at ground level within those sites.

The Lennox Head and Alstonville Village Centres are zoned E1 Local Centre and the objective of promoting pedestrian traffic within these centres is also relevant in ensuring the continued viability and vibrancy of these centres.

There are a number of permissible uses within the E1 zone which could hinder this objective, including uses such as boarding houses, amusement centres, group homes, service stations and others.

Proposed Amendment

It is proposed to amend the wording of clause 7.13 part (1) to read (changes in red):

- (a) *The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street, park and waterfront frontages in **E1 Local Centre and E2 Commercial Centre**.*

It is also proposed to create two new Active Frontages Map sheets – AFR_002A and AFR_005D identifying all of the land within the relevant village centres that is zoned E1 Local Centre as “Active Frontage”.

Item 3: Clause 4.3A Exceptions to height of buildings

Issue and Justification

The clause aligns building height and flood planning provisions by providing that, where land is identified on the *Building Height Allowance Map*, the maximum height of buildings is measured from the AHD level shown on that map rather than from existing ground level.

The *Building Height Allowance Map* relates to flood prone land and recognises that floor levels for new buildings need to be raised to achieve the relevant flood planning levels, which are the AHD levels identified in the Map.

In most cases, the relevant flood planning level is higher than the existing ground level but there are a small number of sites that have been shown to have an existing ground level that is higher than the AHD level shown in the *Building Height Allowance Map*.

In those cases, the current wording of clause 4.3A (3) means that the maximum building height must be measured from a level that is lower than the existing ground level.

Proposed Amendment

It is proposed to amend the wording of clause 4.3A part (3) to read (changes in red):

- (3) *The maximum height of a building on land to which this clause applies is to be measured from the minimum level AHD permitted for that land on the Building Height Allowance Map or from existing ground level where the existing level is higher than the minimum shown on the Map.*

Item 4: Clause 7.9 Rural and nature-based tourism development – Agritourism

Issue and Justification

Recent State Government amendments introduced a new definition of *agritourism*, with associated provisions around *farm gate premises* and *farm experience premises*. Agritourism is a type of *agriculture* and not a type of *tourist and visitor accommodation*.

Clause 7.9 applies to “tourism development” on land in zones RU1 Primary Production, RU2 Rural Landscape and C3 Environmental Management. Tourism development is defined in the clause to include a wide range of land uses that all involve visitors / customers attending the site. The definition does not include *agritourism*.

The clause specifies matters for consideration for such uses that relate to the potential for amenity impacts, access issues or impacts on agricultural production.

Farm gate premises and *farm experience premises* are similar to the other uses currently listed in that they rely on visitors / customers attending the site. The considerations specified in clause 7.9 are relevant to these land uses.

Proposed Amendment

It is proposed to amend clause 7.9 by adding the following to the definition of **tourism development** in part (6) of the clause:

- (l) *agritourism*

Item 5: Dwellings in E1 Zone

Issue and Justification

Dwelling houses and secondary dwellings are currently listed as permitted with consent in the E1 Local Centre Zone. There are a number of areas within the Shire zoned E1 Local Centre, including the village centres of Lennox Head, Wollongbar, Alstonville and Wardell.

These areas are intended to provide for the retail and business needs of their local areas. Development within these centres for dwelling houses is inconsistent with the objectives of the E1 zone, in that it will not encourage investment in local commercial development that generates employment opportunities and economic growth.

Proposed Amendment

It is proposed to amend the development table to the E1 Local Centre Zone to remove *Dwelling houses* and *secondary dwellings* as uses permitted with consent and add them to the list of prohibited land uses.

Item 6: Hill Street Tintenbar – Dwelling Entitlement

Issue and Justification

Council's *Dwelling Opportunity Reinstatement Map* identifies land where Council records indicate historic dwelling entitlements exist. In a number of cases, the properties mapped constitute historic groups of lot holdings and clarify that a single dwelling entitlement exists over a group of lots.

Land at Hill Street Tintenbar is shown on the map below shaded purple :



Figure 3: Extract from Current Dwelling Opportunity Reinstatement Map

The identified group of lots was previously in a single ownership. In recent years, several of these individual lots have been sold and so the group of lots has been split up in ownership terms. This means that the dwelling opportunity is now difficult to exercise and there is an equity issue in terms of which landholder receives the one entitlement applying to the group of lots.

Proposed Amendment

It is proposed to amend the *Dwelling Opportunity Reinstatement Map* to remove the Tintenbar properties.

Item 7: Avalon Estate, Wollongbar

Issue and Justification

The current zoning of the final stage of the Avalon Estate (Lot 129 DP 1276352) is shown in Figure 4.

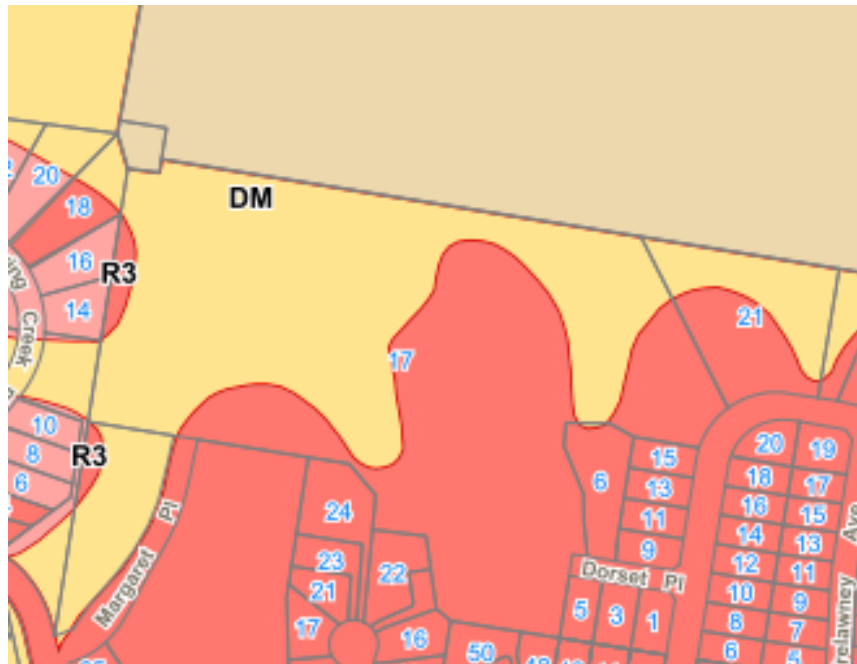


Figure 4: Current Zoning Avalon Estate

A portion of Lot 129 is 'deferred area' under BLEP 2012, retaining a zoning of 7(d) Environmental Protection (Scenic/Escarpment) under BLEP 1987.

A development application has been lodged for a subdivision of the property. Because of the wording of clause 11B of BLEP 1987 (Exceptions to minimum lot size for split zones), one of the resulting lots must contain all of the land zoned 7(d) and no other land.

In this case, the 7(d) lot would have an area of approx. 2.8ha, which is permitted under the provisions of BLEP 1987.

However, the lot would not have a dwelling entitlement, as there are no provisions of clause 12 of BLEP 1987 that provide an entitlement for a lot less than the minimum area required (40ha) when created in accordance with clause 11B.

In addition, the wording of Clause 11B is such that the small area of land zoned R3 Medium Density under BLEP 2012, located on the western boundary of the lot, would need to be incorporated into another lot within that zone, resulting in a split lot, as access to that portion of land is not available.

Proposed Amendment

It is proposed to rezone the deferred area within Lot 129 to C3 Environmental Management under BLEP 2012. The C3 area would also include the small, isolated section of land currently zoned R3 Medium Density Residential.

Under the provisions of clause 4.2C of LEP 2012, all of this land would still need to be contained within a single lot. However, that lot would have a dwelling entitlement by way of clause 4.2A as it would be "a lot created under this Plan" (cl 4.2A(3)(b)). This would then allow the owner of that lot to reside on the land to manage the area zoned C3 Environmental Management.

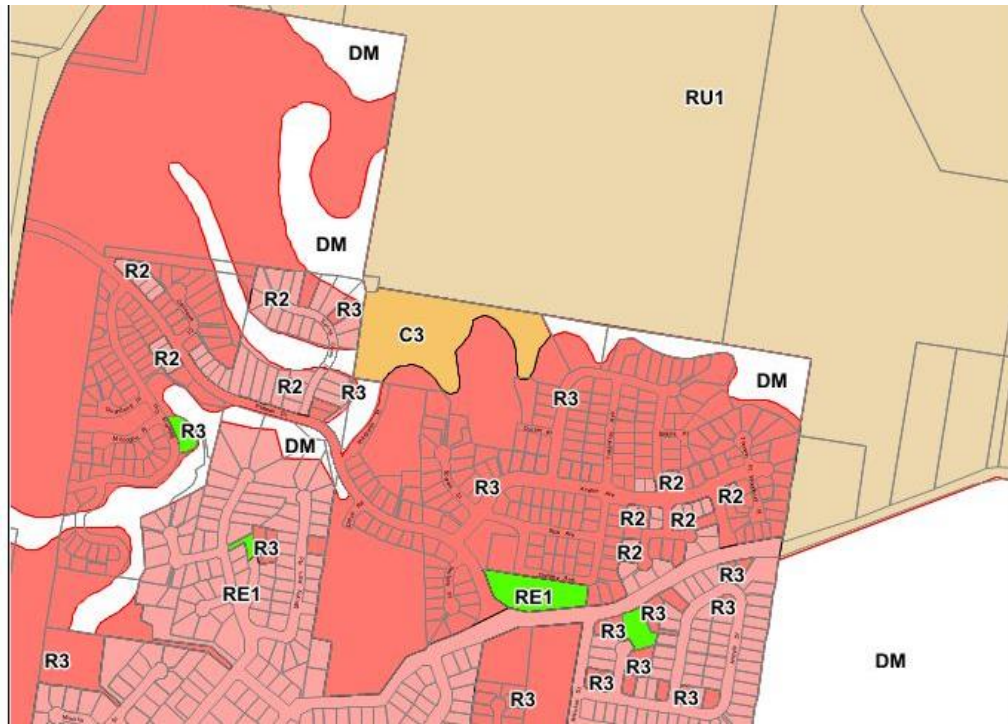


Figure 5: Proposed Zoning Avalon Estate

Item 8: Dual Occupancy Development

Issue and Justification

State Environmental Planning Policy (Housing) 2021 has recently been amended by the State Government, with the effect that development for the purposes of dual occupancies and semi-detached dwellings is now permitted with development consent in the R2 Low Density Residential zone across the whole of the State.

There are some exclusions – notably dual occupancy is not permitted on bush fire prone land, flood prone land or in a coastal vulnerability area.

Historically, dual occupancy development has been prohibited in the R2 zone in Ballina Shire, apart from a few exceptions as discussed below.

The provisions of a State Environmental Planning Policy take precedent over the LEP and there are therefore a number of current provisions of BLEP 2012 that are now no longer relevant.

Clause 4.1B Minimum subdivision lot size for certain strata plan schemes in certain zones

The effect of this clause is to apply the minimum lot size that is applicable to a land subdivision to a strata subdivision in the nominated zones, which are primarily rural and environmental protection zones, but also include the R2 Low Density Residential Zone.

Now that dual occupancy development is permitted in the R2 zone, the current clause would act to prevent strata subdivision of any approved dual occupancies, unless the individual strata lots have an area of around 600m² (the minimum subdivision lot size in most R2 areas).

This will act as a disincentive to such development.

Merit applications around the suitability of a site for dual occupancy development are undertaken with the development application to construct the

building(s). The ownership of the individual dwellings (as achieved through a strata subdivision) has no practical implications for the property or the locality.

Of note is that although new dual occupancies are not permitted in some areas because of exclusions under the State policy (e.g. Ballina Island because of flooding), the change to clause 4.1B below would allow strata subdivision of historically constructed dwellings (where it is not currently permitted in R2 zones). This is likely to result in a substantial financial gain for owners of such properties if strata subdivision is undertaken.

Proposed Amendment

It is proposed to delete reference to zone R2 Low Density Residential from part 2 of clause 4.1B.

The effect of this amendment would be to enable approval of a strata subdivision of a lawfully approved dual occupancy development without regard to the area of the individual strata lots. This aligns with the recently introduced State policy.

Clause 7.17 Use of certain land at Wollongbar

This clause provides that, for land within the R2 Low Density Residential zone at Wollongbar, dual occupancy development is permitted with consent on lots that have an area of 900m² or more. The applicable area is identified as "Area O" on the Additional Permitted Uses Map.

Part 3 of the clause also specifies that consent cannot be granted to a dual occupancy on land in bush fire attack level-4 or the flame zone.

Now that dual occupancy development is permitted in all R2 Low Density zones, this clause is superfluous.

The requirement for a lot size of 900m² remains in Chapter 4 of the Ballina DCP 2014 and is not overwritten by the Housing SEPP. It can, therefore, continue to be enforced.

The changes to the Housing SEPP specifically exclude development on bush fire prone land and this therefore continues the restriction within the current part 3.

Proposed Amendment

Given that the clause is now superfluous, it is proposed to delete clause 7.17. It is also proposed to amend the Addition Permitted Uses Map to remove the area identified as "Area O".

Schedule 1 Item 1A: Use of certain land at 1 Libby Lane and 200 North Creek Road, Lennox Head

This clause provides that dual occupancy development is permitted with consent on the land, identified as "Area D" on the Additional Permitted Uses Map. It further specifies that Clause 4.1B does not apply to a strata subdivision at the site.

Proposed Amendment

As above, this provision is now superfluous. It is proposed to delete Item 1A and amend the Additional Permitted Uses Map to remove "Area D".

Schedule 1 Item 8: Use of certain land at Alstonville

This clause provides that, for land within the R2 Low Density Residential zone at Alstonville, dual occupancy development is permitted with consent on lots

that have an area of 900m² or more. The applicable area is identified as “Area L” on the Additional Permitted Uses Map.

Proposed Amendment

As above, this provision is now superfluous. It is proposed to delete Item 8 and amend the Additional Permitted Uses Map to remove “Area L”.

Schedule 1 Item 12: Use of certain land at Wardell

This clause provides that, for land within the R2 Low Density Residential zone at Wardell, dual occupancy development is permitted with consent. The applicable area is identified as “Area M” on the Additional Permitted Uses Map.

Proposed Amendment

As above, this provision is now superfluous. It is proposed to delete Item 12 and amend the Additional Permitted Uses Map to remove “Area M”.

Item 9: River Street, East Wardell

Issue and Justification

Properties at 20 and 22 River Street East Wardell are currently zoned RU2 Rural Landscape, as shown in Figure 9.

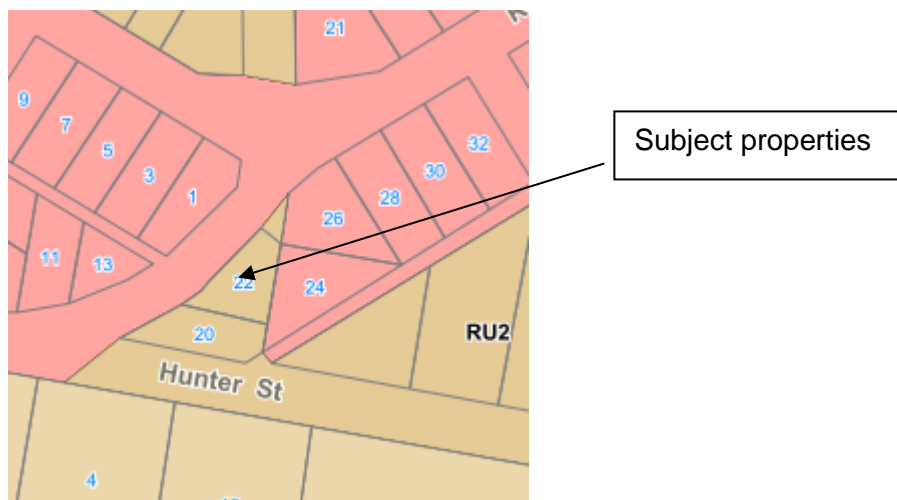


Figure 9: Current Zoning River Street East Wardell

20 River Drive – Lot 13 DP 789203 – has an area of 917.6m². 22 River Drive – Lot 14 DP 789203 – has an area of 687.4m².

The lots are currently vacant, and Council has previously determined that each enjoys a dwelling entitlement under the provisions of the LEP.

Given the rural zoning of the lots, future applications for dwellings on the properties would be assessed in terms of compliance with DCP 2012 Chapter 7 Rural Living and Activity, rather than Chapter 4 Residential and Tourist Development. Compliance with certain provisions of Chapter 7, notably building lines, would not be possible on these lots.

The lots are bounded to the east and west by lots of a similar size, which are zoned R2 Low Density Residential. There is reticulated water and sewerage services available to the lots as well as electricity and telecommunications.

Council records do not clearly indicate why these lots remained zoned RU2 on gazettal of BLEP 2012.

8.3 Planning Proposal - General Amendments - Ballina LEP 2012

It is considered that the lots are no different to those in the adjoining residentially zoned area and that they are suitable for development for residential purposes. The land is subject to flooding, but the provisions of Council's DCP relating to flood affected urban lots would adequately address that risk.

Proposed Amendment

It is proposed that the properties be zoned R2 Low Density residential, as shown in Figure 10.

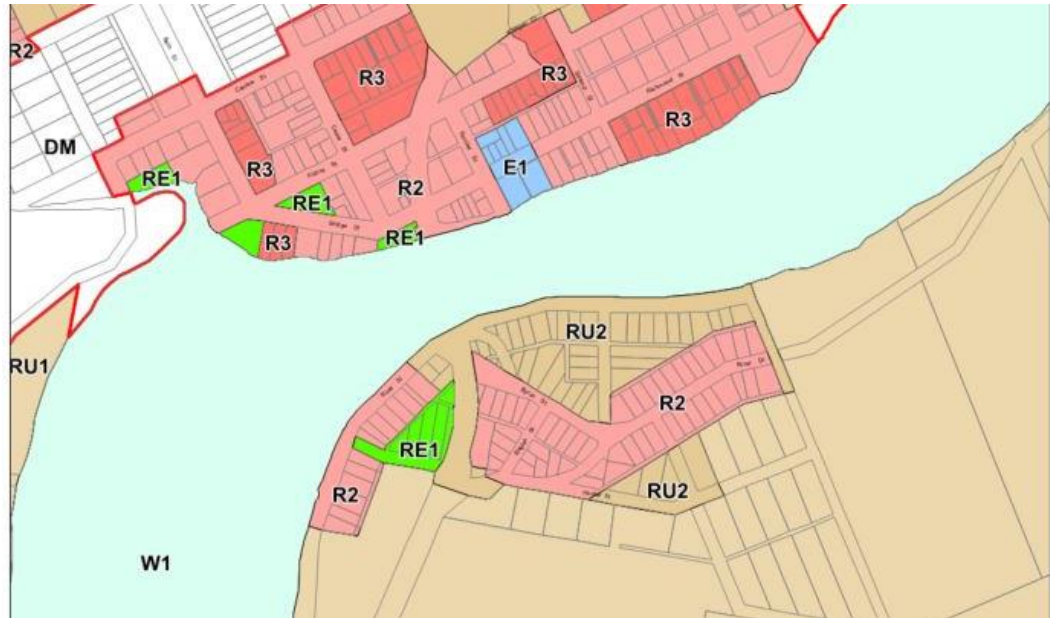


Figure 10: Proposed Zoning River Street East Wardell

Item 10: Ascot Road, Ballina

Issue and Justification

The subject land, Lot 10 DP 1297404, is situated within a largely developed urban area that is characterised by industrial uses (Southern Cross Industrial Estate) to the south and west, residential uses to the north and cleared grassland to the east.

As shown in Figure 11, the bulk of the site is zoned E4 General Industry, apart from a small portion in the south-east, which is zoned RU2 Rural Landscape.

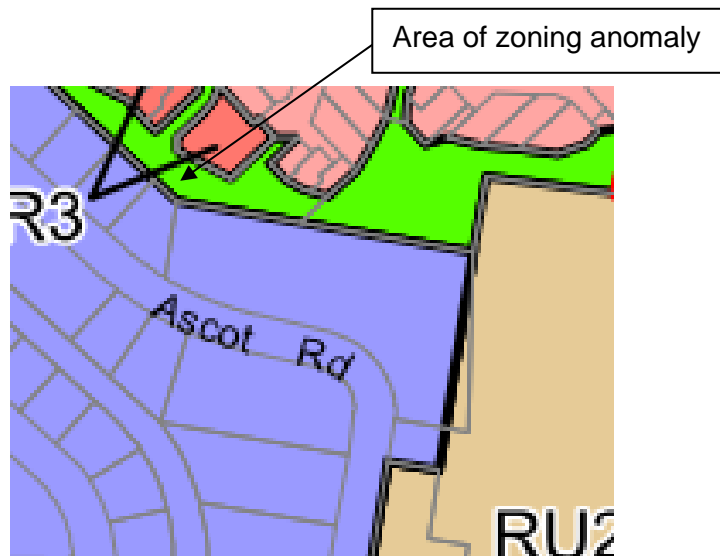


Figure 11: Ascot Road – Existing Zoning

The zone boundary appears to be an anomaly, in that it does not follow the eastern boundary of the property. The same mapping anomaly is within the Lot Size Map.

Proposed Amendment

It is recommended that relevant BLEP 2012 Map Sheets for zoning and lot size be amended to correct the mapping anomaly by aligning with the property boundary.

Item 11: Clause 4.2B Boundary Adjustment

Issue and Justification

Clause 4.2B provides exemptions to minimum subdivision lot size for lot boundary adjustments relating to land in a rural zone.

Following receipt of legal advice it is evident that there is some ambiguity in the operation of the clause associated with use of boundary adjustment and subdivision of land terminology.

Improved wording can be applied to achieve the intended outcomes of the clause which are:

- to maintain Council's historic approach to what constitutes a 'boundary adjustment',
- to be specific about changes to boundaries rather than any form of subdivision,
- to enable a wide range of scenarios to be considered,
- to not enable additional dwellings or lots, and
- to not enable erosion of agricultural or environmental land values.

It is also noted that the clause only relates to rural zones at present, and does not apply to boundary adjustments that may be beneficial in the C2 Environmental Conservation or C3 Environmental Management zones.

The current wording of the clause is:

4.2B Exceptions to minimum subdivision lot size for lot boundary adjustments

- (1) *The objective of this clause is to permit lot boundary adjustments in rural zones that will provide improved agricultural or environmental outcomes without creating additional opportunities for the erection of dwellings.*
- (2) *Development consent may be granted for the subdivision of land in a rural zone to create lots of a size that are less than the minimum size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that—*
 - (a) *the subdivision will not result in the creation of an additional lot or the opportunity for additional dwelling entitlements, or both, on any of the lots, and*
 - (b) *the subdivision will not adversely impact on the long-term agricultural production potential or environmental characteristics of the lots and the surrounding locality.*

Proposed Amendment

To remedy the existing deficiencies in the clause, it is proposed to amend clause 4.2B to read (changes in red):

4.2B Exceptions to minimum subdivision lot size for lot boundary changes

- (1) *The objective of this clause is to permit **the boundary between two or more lots to be altered in certain circumstances to enable improved** agricultural or environmental outcomes without creating additional opportunities for the erection of dwellings.*
- (2) *This clause applies to land in the following zones;*
 - (a) *Zone RU1 Primary Production,*
 - (b) *Zone RU2 Rural Landscape,*
 - (c) *Zone C2 Environmental Conservation,*
 - (d) *Zone C3 Environmental Management.*
- (3) *Development consent may be granted for the subdivision of land **to change the boundaries of adjoining lots** to create lots of a size that are less than the minimum size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that—*
 - (a) *the subdivision will not result in the creation of an additional lot or the opportunity for additional dwelling entitlements, or both, on any of the lots, and*
 - (b) *the subdivision will not adversely impact on the long-term agricultural production potential or environmental characteristics of the lots and the surrounding locality.*

Item 12: Advertising Structures

Issue and Justification

In BLEP 2012, signage is defined as follows:

means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following—

- a. *an advertising structure,*
- b. *a building identification sign,*
- c. *a business identification sign,*

but does not include a traffic sign or traffic control facilities.

Advertising structures can take the form of billboards or pylon signs, usually containing advertisements that do not relate to the property upon which they are erected.

There are no development controls or standards in the LEP that relate to advertising structures.

The Ballina Development Control Plan 2012 does contain controls on advertising structures, notably the following:

Pole or Pylon Sign	<ul style="list-style-type: none"> a) Must be located wholly on private land; and b) Maximum advertising area of 8m²; and c) Maximum height 7.5m to the top of the sign, above the natural ground level; and d) Keep within the established heights of similar types of signs in the locality; and e) Must be accompanied by an engineering report indicating that the proposed structure is structurally sound.
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Council’s experience, however, is that it is difficult to apply and enforce these provisions and this has been most recently evident in a Land and Environment case involving a proposed advertising sign on Bangalow Road in Ballina.

Advertising structures are currently permitted with consent in the following zones:

- E1 Local Centre
- E2 Commercial Centre
- E3 Productivity Support
- MU1 Mixed Use
- RE1 Public Recreation
- W2 Recreational Waterways

The other forms of *signage*, building identification signs and business identification signs, are permitted with consent in the zones listed above and all other zones.

Proposed Amendment

Third party advertising on structures that does not relate to the business being carried out on the land upon which the structure is erected is an outdated form of advertising.

It is recommended that *advertising structures* be prohibited in all zones in BLEP 2012.

This would still allow other forms of *signage*, particularly building identification signs and business identification signs, to be permitted with consent across the Shire.

Delivery Program Strategy / Operational Plan Activity

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

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

Community Engagement Strategy

Community engagement (including government agency referrals) for this planning proposal will be undertaken in accordance with Council's Community Participation Plan and the conditions required under the Department of Planning and Environment's (DPE) Gateway Determination, when issued.

Financial / Risk Considerations

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

Options

Option 1 – Proceed with the planning proposal

The planning proposal seeks to make relatively minor amendments to the Ballina LEP 2012 to improve the function and operation of the LEP.

This approach involves the submission of the planning proposal contained in Attachment 1 to the Department of Planning, Housing and Infrastructure (DPHI) for Gateway determination. If supported by DPHI, the proposal will be subject to a public exhibition period prior to further consideration by Council.

Under this approach it is also proposed that Council would seek to exercise delegated plan making functions.

This is the recommended approach.

Option 2 – Amend the planning proposal

It is open to the Council to amend the planning proposal in relation to any of the items summarised above.

This option is not recommended without further discussion regarding the particulars of the item.

RECOMMENDATIONS

1. That Council endorses, for Gateway determination, the amendments to Ballina Local Environmental Plan 2012 outlined in the planning proposal contained in Attachment 1 (BSCPP 24/002).
2. That Council submits the planning proposal contained in Attachment 1 to the NSW Department of Planning, Housing and Infrastructure for review and Gateway determination.
3. That upon an affirmative Gateway determination being received from the Department, the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.
4. That the Department of Planning, Housing and Infrastructure be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
5. That Council receive a further report on the proposal following the completion of the public exhibition of the planning proposal.

Attachment(s)

1. General Amendments Planning Proposal 2024 [⇒](#)

8.4 Ballina Shire Development Control Plan - Amendment No 17

Section	Strategic Planning
Objective	To outline proposed updates to the Ballina Shire Development Control Plan 2012 and seek direction on the public exhibition of the identified amendments.

Background

This report addresses amendments to provisions within the Ballina Shire Development Control Plan 2012 (DCP 2012), which arise from a periodic review of the DCP. The proposed changes are part of ongoing monitoring and review of DCP 2012 to ensure it is contemporary and reflects intended planning outcomes. The amendments include:

- Chapter 1 Administration – Amendments to the Dictionary to insert shade structure within the definition of ancillary development and to amend the definition of *foreshore*.
- Chapter 2a Vegetation Management – Incorporates references to the C3 Environmental Management zone and additional exemptions to development consent requirements within the C2 and C3 zones.
- Chapter 2 General and Environmental Considerations – Amendments to clause 3.16 – *Public Art*, clause 3.18 *Protection of Foreshore and Public Open Space Areas*, Clause 3.19 - *Table 2.3 Car Parking Requirements - pubs*, and insertion of a new clause 3.24 *Acid Sulfate Soils*.
- Chapter 3 Urban Subdivision – Amendments to the various special area controls in Section 5 to insert reference to Open Space (parks) infrastructure requirements, and deletion of the *Burns Point Ferry Road Area Controls* contained in Section 5.8.
- Chapter 4 Residential and Tourist Development – Amendments to allow certain unenclosed ancillary development within part of the foreshore building line area to the Ballina Quays and Banyanda Lake.

This report recommends that the proposed DCP 2012 amendments be placed on public exhibition and that the Council further consider the amendments following the exhibition period. The draft DCP amendments are provided as attachments to this report.

Key Issues

- Foreshore building line restrictions
- Value of public art
- Carparking provisions for pubs
- Acid Sulfate Soil controls
- Deletions of Burns Point Ferry Road Area controls
- Park infrastructure requirements
- Vegetation management

Discussion

Foreshore Building Line Restrictions Ballina Quays and Banyanda Lake

Following the Council’s decision to approve a vergola constructed at 137 Riverside Drive, West Ballina, (Item 8.1 of 22 February 2024 Ordinary meeting), a review of applicable foreshore building line restrictions has been undertaken.

Diagram 1 shows the location of the vergola referenced above.

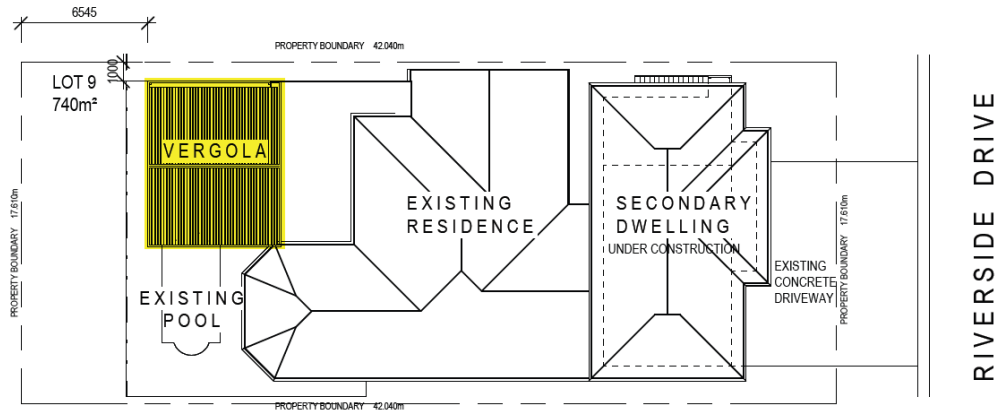
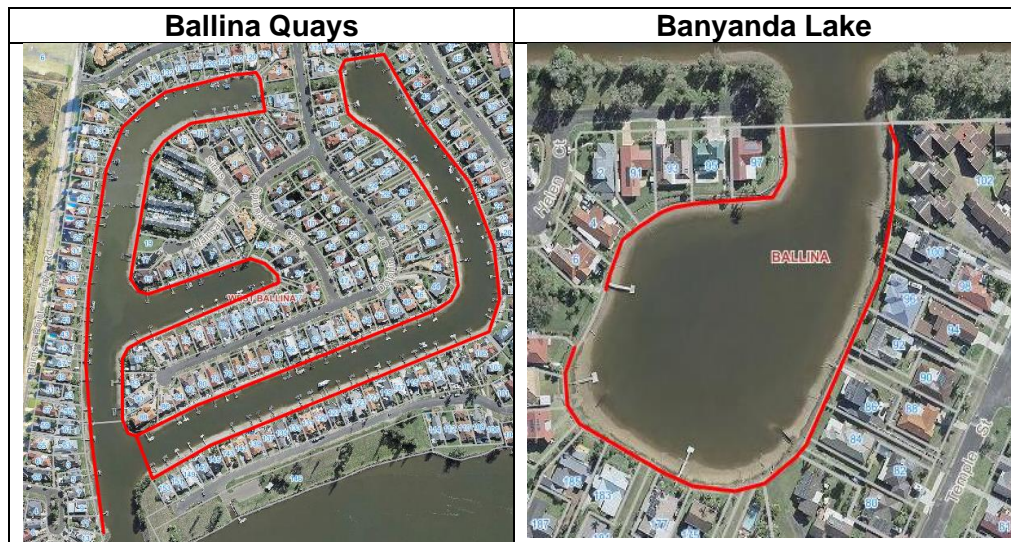


Diagram 1 – Location of Approved Vergola – 137 Riverside Drive West Ballina

The review has found an opportunity to relax the building restrictions applicable to within the foreshore building line areas at Ballina Quays (11.5m) and Banyanda Lake (8.2m). Diagram 2 below shows the location of the subject foreshore building lines.

Diagram 2 – Areas Affected by Foreshore Building Lines Restrictions Ballina Quays and Banyanda Lake (outlined in red)



In both of the above situations the foreshore building lines apply to residential zoned land, applied from waterway areas that are classified as operational land under the provisions of the *Local Government Act 1993*.

The operational status of the area proposed to be protected by the foreshore building line differentiates these areas from other areas subject to foreshore building line restrictions.

8.4 Ballina Shire Development Control Plan - Amendment No 17

Within waterways, classified as operational land, Council already permits with consent pontoons, jetties, and access ramps. These structures are also subject to special licensing arrangements in accordance with council's *Private Structures Within Council Owned Waterways Policy*.

This further differentiates these areas from other areas subject to foreshore building lines which do not adjoin operation land.

It is also relevant that in the case of Ballina Quays a significant number of structures such as swimming pools are already located within the foreshore building line area.

To facilitate the proposed relaxation of foreshore building line restrictions several amendments to the DCP are proposed. The first one is to the *ancillary development* definition, contained in the *Dictionary* to Chapter 1.

This definition is proposed to be amended to incorporate a reference to shade structures. Shade structures typically include structures such as shade sails, awnings, and vergolas.

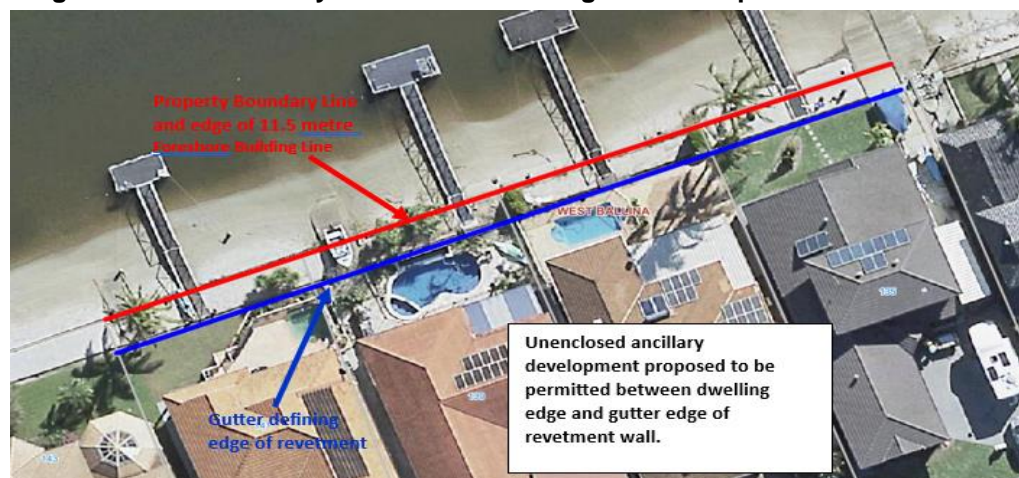
It is also proposed to amend the controls relating to building lines in *Chapter 4 Residential and Tourist Development – Element E*. The amendment proposes to permit **unenclosed ancillary development**, other than visually impermeable fences, in part of the foreshore building line area to the Ballina Quays and Banyanda Lake.

This is that part of the foreshore building line area located between the rear of the dwelling and the edge of the gutter defining the location of the revetment.

Diagram 3 provides an example at Ballina Quays where the blue line denotes the extent of the area, from the rear of dwellings, in which it is proposed to permit unenclosed *ancillary development*.

The distance between the red and blue lines varies between locations, it is generally between 5 and 6 metres. This area is also privately owned land but is not impacted by the proposed changes.

Diagram 3 – Ballina Quays Foreshore Building Line Example



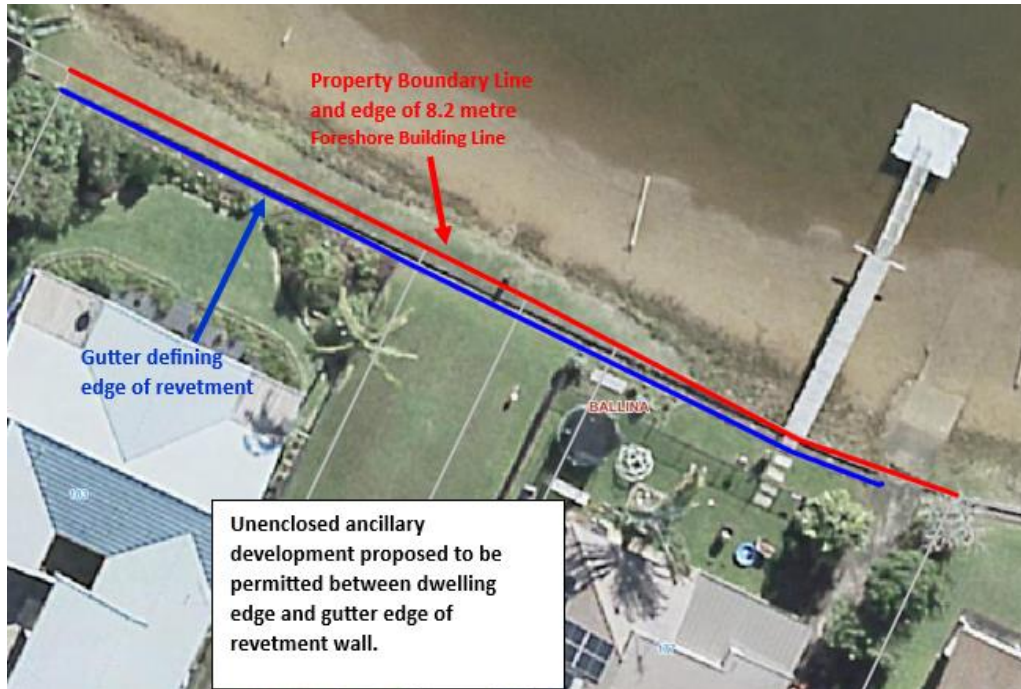
The photo below shows the location of the kerb and gutter which defines the edge of the revetment in part of the Ballina Quays estate.

Photo – Edge of revetment in Ballina Quays estate.



Diagram 4 provides an example at Banyanda Lake where the blue line also denotes the extent of the area in which it is proposed to permit unenclosed ancillary development.

Diagram 4 – Banyanda Lake Foreshore Building Line Example



It is noted that the foreshore building line applicable to Endeavour Lake (4.6 metres from North Creek) is not impacted by the above proposed changes. Endeavour Lake is also classified as operational land.

The Endeavour Lake foreshore building line has not been included in the proposed amendments because it affects land zoned E4 General Industrial. This contrasts with Ballina Quays and Banyanda Lake which are zoned residential.

Additionally, the Endeavour Lake foreshore building line affects a lesser area than in the other two cases, and there is also no obvious common reference point (such as the edge of gutter over revetment wall) from which to apply any restriction change.

Finally, it is proposed to clarify that clause 3.18 *Protection of Foreshore and Public Open Space Areas* contained in Chapter 2 does not apply to Ballina Quays, Banyanda and Endeavour Lakes.

Endeavour Lake has been included here as it is also a Council owned operational classified waterway.

The application of clause 3.18 to an operational classified waterways is considered inconsistent with the intent of the clause. This is because it is possible to utilise such areas for private purposes (jetties, pontoons and access ramps) with council consent.

Attachment 1 provides details of the proposed amendments to Chapters 1, 2 and 4 required to introduce the foreshore building line and ancillary development changes discussed above.

Definition of foreshore in Dictionary - Chapter 1 Administration

An amended definition is proposed for the term *foreshore*. The current *foreshore* definition contained within DCP 2012 is:

foreshore has the same meaning as 'coastal foreshore' as defined in the *Ballina Local Environmental Plan 2012*

Ballina LEP 2012 does not contain a definition for *coastal foreshore* or *foreshore*. The definition for *foreshore* is now in the *Coastal Management Act 2016*. It is proposed to reference that definition in the DCP.

Acid Sulfate Soil Provisions

In June 2024 council staff made a submission to the Department of Planning Housing and Infrastructure (DPHI). The submission supported certain DPHI initiated changes to the complying development codes (refer Councillor Bulletin 7 June 2024). The changes sought to permit complying development upon land containing Class 2 Acid Sulfate soil.

Research associated with making the DPHI submission revealed that DCP 2012 does not contain acid sulfate soil (ASS) provisions. It is proposed to insert a new Section 3.24 in Chapter 2 – General and Environmental Considerations that define existing council process requirements applicable to certain DAs for works in areas impacted by ASS.

Specifically, the provisions specify when a Preliminary Soil Assessment and, in the case of minor works, the preparation of an Acid Sulfate Soil Management Plan for Minor Work is required. It is considered desirable that the controls sit within the DCP 2012 framework from a transparency and ongoing review viewpoint.

Change to car parking rate for pub and registered club use

The applicable car parking rate for pubs (same rate applies to registered clubs), is 1 space per 25m² of Gross Floor Area (GFA). If a public restaurant is included an additional 1 space per 3 seats or 15 per 100m² GFA whichever is the greater also applies.

The existing DCP pub car parking rate reflects a historical approach which at the time reflected that in pubs separate areas were often provided for dining, drinking, socialising etc.

More contemporary pubs and taverns often do not differentiate between areas available for food and those for drinking. In that context it becomes problematic to distinguish between drinking and eating areas for car parking rate purposes. This is especially so where no formal restaurant area is provided.

This is also the case when eating and drinking areas are in unenclosed outdoor areas such as a terrace, balcony, and similar alfresco areas.

A new car parking rate applicable to pubs and registered clubs is proposed to be included in Chapter 2 General and Environmental Considerations - Clause 3.19 - Car Parking and Access. The new rate does not differentiate between indoor and outdoor areas utilised for the consumption of food and drink. The new rate is 6 spaces per 100m² of GFA plus 6 spaces per 100m² of unenclosed food and drink area.

The new rate has been proposed following a review undertaken by TTM Consulting Pty Ltd (TTM). The review supports a variation to the DCP 2012 pub car parking rate associated with the proposed Epiq Tavern development (DA2023/374) at Salt Air Circuit, Lennox Head. The approach taken by TTM is supported by councils Traffic and Development Engineering staff following a merit-based assessment of parking demand.

Attachment 2 contains an extract from the TTM report which indicates that there is wide variation throughout the Northern Rivers and Gold Coast in the car parking rates applicable to pubs and restaurants.

It is noted that the application of the proposed new pub car parking rate for the Epiq Tavern reduces required car parking from 95 to 85 spaces.

Chapter 2 – Clause 3.16 Public Art

At the 3 October 2023 Ordinary meeting, Council resolved that, among other items, a report be received on the options to increase the developer contribution for public art. The Public Art Advisory Panel has since considered these options.

At the 27 June 2024 Ordinary meeting, Council resolved to adopt relatively minor changes to the Public Art Policy including removing from the Policy the monetary values and other requirements for public art that are replicated in Chapter 2 of the DCP.

The report advised that as the monetary values would be removed from the policy, the issue would be explored in more detail in a separate DCP amendment report to Council.

Chapter 2 of the DCP currently requires that commercial premises, tourist and visitor accommodation and recreation facility developments in certain zones with development costs exceeding \$1m are to provide artwork with a minimum value of \$16,000. The public art is to be an integral part of the development in a civic space.

Alternatively, development proponents can request that the public art be placed on public land, in which case Council may accept a payment of \$16,000 towards the provision of public art in a public place.

8.4 Ballina Shire Development Control Plan - Amendment No 17

Funds received contribute to the commissioning of permanent public artworks in public areas as determined by the PAAP.

These DCP requirements were first introduced in 2005 and apart from a slight increase from \$15,000 to \$16,000 the value has not changed through this time.

The Public Art Advisory Panel (PAAP) considers there is merit in increasing the value of public art required for private development and raising the minimum threshold of construction costs.

The options considered by the PAAP are as follows.

Raising the minimum threshold of development costs

Raising the minimum threshold of capital construction cost for relevant developments from \$1m to \$2m is appropriate given the increasing costs of construction.

Increasing the minimum value of public art

The minimum value of public art applied to all relevant developments is a flat rate of \$16,000, which means that a \$2m development is required to provide public art to the same value as a \$20m development.

The two options considered by the PAAP for raising the minimum value for public art are as follows:

1. Adopt an increased flat rate. Under this option, a flat rate is retained and the minimum of \$16,000 is increased to reflect the significant increases in construction and other costs associated with public art.

It is proposed that an increase would be based on the consumer price index (CPI) with the base year the year of the last review of the policy, that is, 2020.

The CPI increase from June 2020 to March 2024 is calculated to \$3,217, which would bring the new value to \$19,217.

However, this could be rounded down to the nearest thousand that is, \$19,000.

2. Calculate the minimum value of public art based on a percentage of the costs of the development (calculated in accordance with the *Environmental Planning & Assessment Regulation 2021*). This approach has been adopted by other councils.

For example, Byron Shire Council requires public art to the value of at least 2.5% of development costs up to \$2m, and 1% of further development costs exceeding \$2 million.

Georges River Council requires relevant developments valued at \$5 million or more to include public art at a minimum of at least 1% of total construction costs.

Based on consideration of the public art budgets for recent public art projects, applying a percentage of construction costs rather than a flat fee to determine the value of public art or public art budget for private developments would provide better public art outcomes across the shire.

8.4 Ballina Shire Development Control Plan - Amendment No 17

The public artwork budget is the total financial allocation to the artwork, not just the fabrication costs (materials and construction).

The budget also covers coordination or project management costs, community engagement and artist fees but excludes the cost of land on which the public art is located.

It is recommended that requiring public art to be provided to a minimum value of 1% of development costs for relevant developments over \$2m will be more commensurate with the scale of development as well as providing better public art outcomes across the shire.

To help ensure the public art component is manageable and not too onerous on developers it is proposed that the value is capped at \$200,000.

For comparison purposes the table below provides some examples of public art projects for new developments in Ballina Shire, the value of the public art provided and the percentage of the development costs (where available) this represented.

These estimates do not include costs associated with project management.

For a more realistic public art budget, project management costs should be added.

Location	Description	Council or Private	Public art value	Estimated % of CC (where available)
Commercial Site & Community Hub, Ballina Heights (DA 2023/270)	Happy Hoops bike racks	Private	\$15,000	0.4% Est. cost of works: \$4.15 million
74 Ballina Street, Lennox Head (DA 2019/123)	Public art boxes	Private	\$21,000	0.8% Est. cost of works: \$2.64 million
Wollongbar District Park, Wollongbar	<ul style="list-style-type: none"> Carved timber poles Table tennis artwork 	Council	\$22,000	1.5% Cost of works: \$1.5 million.
Ballina Street, Lennox Head (upgrade to Main Street, Ross Park and Lennox Park)	<ul style="list-style-type: none"> Turtle play sculpture Pavers First Nation language elements 	Council	\$86,000	0.8% Estimated cost of works: \$11 million)
Aureus Estate, Skennars Head (DA 2017/244)	<i>Aureus Cubby</i> Concrete egg play sculpture	Private	\$15,000	0.06% Est. cost of works: \$24.36 mill
Banyan Hill Estate, (DA 2016/184)	<i>Swamp Wallabies</i> sculpture	Private	\$50,000	0.37% Est. cost of works \$13.42 mill (original DA)
Airport Boulevard, Ballina	<i>Five Shields</i> sculpture and landscaping	Council	\$100,000	1% Cost of works: \$10.7 million

Payments made to Council in lieu of providing on-site public art

The DCP allows developers to provide funds to Council rather than provide public art on site. The contribution is to the same value as it would be if provided on site.

8.4 Ballina Shire Development Control Plan - Amendment No 17

Council has received three requests from proponents to provide public art on public land in lieu of providing public art on site.

It is proposed to amend the DCP to allow a developer to enter into a Planning Agreement with Council as this is the most appropriate legal mechanism to receive a contribution.

Public art project management requirement

Some councils such as Central Coast, require applicants to engage a public art coordinator or project manager responsible for the planning, management and reporting of the public art to ensure quality public art outcomes for developments with construction costs for developments over \$5m.

When proponents engage a public art consultant or specialist project manager to oversee this component of their development, the DA process is smoother and the public art outcomes are usually better.

An example of this is Digby Moran's artwork on the Woolworths building in River Street, Ballina.

According to the National Association for the Visual Arts (NAVA) the budget for the management of public art projects should be between 10% and 15% of the total public art budget (may be more dependent on the complexity of the project).

Artist fees vary between 20% and 40% of the project's overall budget.

The engagement by the proponent of the artist and public art coordinator to undertake planning, design, development, and management of a public artwork would be included in the calculation of the value of public art.

For example, a development with construction costs estimated at \$5m would be required to provide a minimum value of \$50,000 for public art (1%).

From this budget it could be expected that \$5,000 - \$7,500 would be for a public art project manager.

A further \$10,000 - \$20,000 would be allocated to artist fees, leaving \$22,500-\$35,000 for fabrication and installation of an artwork on site.

Oversight of public art projects would not only help ensure quality public art outcomes but also seek to support the local arts and creatives industry.

It is suggested that for larger developments over \$5m, proponents must engage a Public Art Coordinator or project manager responsible for the planning, management and reporting of the public art.

Other changes to Clause 3.16

Other changes proposed to Clause 3.16 are as follows:

- Insert the SP4 Enterprise Zone in the list of applicable zones. SP4 zone has recently been approved to apply to Tuckombil Quarry.
- Amend one of the planning objectives from '*recognises Aboriginal cultural heritage*' to '*recognises cultural heritage*' as it may not always be possible to achieve the former.

8.4 Ballina Shire Development Control Plan - Amendment No 17

- Include information to help ensure any Aboriginal content or artist is endorsed by the local community to ensure it is culturally appropriate.
- Minor editing to ensure consistency of terms or process throughout the chapter i.e. 'art works' replaced by 'public art', and to include current 'controls' as notes, as much of the existing does not comprise development controls.

Chapter 2a – Vegetation Management

Following the coming into effect of Ballina LEP 2012 Amendment No 55 (Deferred Matters) on 12 July 2012 Chapter 2a has been reviewed. The review resulted in the incorporation of additional references to the C3 – Environmental Management zone.

It also resulted in a number of additional exemptions to the requirement for development consent for vegetation management works within the C2 and C3 being proposed.

Following the exhibition of the deferred matters planning proposal in 2023 a number of concerns were raised by property owners. In terms of vegetation management many property owners sought clarification that rural activities such as those associated with the maintenance of rural infrastructure, fire breaks and removal of camphor laurel trees would not result in the need for development consent.

The above concerns have now been addressed with additional exemptions proposed to be incorporated in the DCP.

For example, it is proposed to allow clearing of up to 0.1ha of camphor laurel trees without requiring consent.

In terms of the clearing distance allowed for rural infrastructure this has been specified as 6 metres.

The 6-metre distance being the distance previously specified by Local Land Services for clearing associated with rural infrastructure within vulnerable and sensitive regulated land.

Chapter 3 – Urban Subdivision – Section 5.8 Burns Point Ferry Road Area and Appendix F

Section 5.8 of Chapter 3, and Appendix F, are proposed to be deleted from DCP 2012 together with a reference to the site on the *Special Area Control Map*.

This part of the DCP 2012 contains controls applicable to 550 - 578 River Street, West Ballina (site) when a substantial part of the site was zoned residential.

In 2019 when the subject controls were introduced into DCP 2012 it was proposed to develop the north – west part of the site for residential live work, and residential subdivision development.

Most of the site was subsequently rezoned to C2 Environmental Management in 2023 rendering the subject DCP 2012 provisions superfluous.

DA2022/721, which proposes 146 independent living units and associated facilities on part of the site, is still the subject of an appeal in the Land and

8.4 Ballina Shire Development Control Plan - Amendment No 17

Environment Court. The subject DA does not rely on the DCP 2012 provisions proposed to be deleted.

Chapter 3 – Urban Subdivision – Appendix F Park Infrastructure Elements

The proposed amendments to be included in new Appendix F specify that local, neighbourhood and regional level parks, required to be embellished by developers, must contain certain mandatory infrastructure items.

Mandatory infrastructure is specified as:

- Drinking fountain and tap, and
- Shade structures over playground areas where there is not adequate shade cover provided by trees.

A range of additional infrastructure items that Council may also require to be incorporated into the park design, is also specified in Appendix F.

The DCP is also amended to refer to Schedule F in Table 3.2 Subdivision Design Standards, and in Special Area Controls in sections 5.1, 5.2, 5.3, 5.5, 5.6, and 5.7.

Ensuring that drinking water is available within new parks was identified as a priority issue by Councillors at the 28 September 2023 Ordinary meeting. *Summary of Draft Changes to DCP 2012*

The following table summarises the draft changes proposed for DCP 2012:

Chapter	Proposed Changes
1. Administration (Attachment 3)	<ul style="list-style-type: none">– Amend Dictionary - <i>ancillary development</i> definition to incorporate shade structure,– Amend Dictionary - <i>foreshore</i> definition,– Update Schedule of Amendments to reference Amendment 17.
2. General and Environmental Considerations (Attachment 4)	<ul style="list-style-type: none">– Amend Clause 3.16 <i>Public Art</i>,– Amend Clause 3.18 <i>Protection of Foreshore and Public Open Space Areas</i>,– Amend Clause 3.19 – <i>Table 2.3 General Car Parking Requirements</i> for pubs,– Update legislation reference to specify s7.11 in Note to Table 2.3,– Add new Clause 3.24 <i>Acid Sulfate Soils</i>.
2a. Vegetation Management (Attachment 5)	<ul style="list-style-type: none">– Amend Clause 3.2 to specify that consent for vegetation management works required in the C3 zone.– Amend Clause 3.3 <i>Exemptions</i> to add exemptions for rural infrastructure, camphor laurel trees and asset protection zones and firebreaks.– Additional notes specifying permitted clearing distances of 6 metres for rural infrastructure and 20 metres for curtilage of a dwelling.

Chapter	Proposed Changes
3. Urban Subdivision (Attachment 6)	<ul style="list-style-type: none"> – Delete Section 5.8 Burns Point Ferry Road Area and Schedule F – Amend Section 5 – Special Area Controls to reference park infrastructure specified in new Schedule F, – Insert new Schedule F – Park Infrastructure Elements and reference to requirements in subdivision design standards table.
4. Residential and Tourist Development (Attachment 7)	<ul style="list-style-type: none"> – Amend Element E – Building Line Controls by inserting a new control ii. Unenclosed ancillary development and amending number references as required.
Special Area Control Map SR_005_020	Amend Special Area Control Map to remove Burns Point site

Delivery Program Strategy / Operational Plan Activity

The proposed amendment to DCP 2012 aligns broadly with the 2024 – 2028 Delivery Program and Operational Plan Outcome HE3.1f – Maintain Local Environmental Plan.

Community Engagement Strategy

Should Council be supportive of the draft DCP 2012 amendments, they will be publicly exhibited for at least 28 days in accordance with Council’s Community Participation Plan and the requirements of the *Environmental Planning and Assessment Act 1979* and associated Regulation.

Financial / Risk Considerations

The processing of the DCP 2012 general amendments can be accommodated within existing resources.

Options

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

Option 1 – Endorse the draft amendments to DCP 2012 for public exhibition.

This is the recommended option as the proposed amendments will ensure that DCP 2012 remains contemporary and reflects recent Council decisions and approaches taken as part of the development assessment process.

Under this option staff will proceed to publicly exhibit the proposed amendments and then a further report will be provided to Council in relation to the adoption of the amendments.

Option 2 – Decline to progress DCP 2012 amendments.

This option is not recommended as it will mean that DCP 2012 will not remain contemporary and over time will be less effective as a development assessment tool.

RECOMMENDATIONS

1. That Council undertake the public exhibition of the draft amendments to the Ballina Shire Development Control Plan 2012 as contained in Attachments 3, 4, 5, 6 and 7 to this report, in accordance with the *Environmental Planning and Assessment Act 1979* and the associated Regulation.
2. That a further report be submitted to Council following the public exhibition of the draft amendments to Ballina Shire Development Control Plan 2012.

Attachment(s)

1. Draft DCP Changes to Facilitate Foreshore Building Line Amendments [⇒](#)
2. Extract from TTM Technical Note Car Parking Rates for Pubs [⇒](#)
3. Draft DCP Chapter 1 - Administration [⇒](#)
4. Draft BSDCP 2012 Chapter 2 - General and Environmental Considerations [⇒](#)
5. Draft BSDCP 2012 - Chapter 2a - Vegetation Management [⇒](#)
6. Draft DCP Chapter 3 - Urban Subdivision [⇒](#)
7. Draft BSDCP Chapter 4 Residential and Tourist Development [⇒](#)

8.5 Biodiversity Conservation - Landholder Incentives

8.5 Biodiversity Conservation - Landholder Incentives

Section	Strategic Planning
Objective	To outline options for landholder incentives associated with implementation of the Ballina Shire Biodiversity Strategy.

Background

The Ballina Local Government Area is recognised as being part of a national biodiversity hotspot due to the concentration of unique flora and fauna in the region. The Northern Rivers region contains a high number of endemic species and supports 40% of NSW's threatened species.

However, there are several key threatening processes that directly impact on biodiversity values in the Shire:

- Loss of native vegetation and habitat fragmentation
- Climate change
- Invasive species
- Alteration to natural flow regimes

In addition to this there are multiple other processes that impact biodiversity, and cumulatively they can lead to the extinction of local flora and fauna.

Conservation and management of biodiversity is the responsibility of all levels of government and the community. Council adopted a Biodiversity Strategy on 22 June 2023, which outlines the actions Council intends take to support and enhance biodiversity in the Shire.

Additionally, on 26 October 2023, Council resolved to receive a report on options to support landholders to undertake conservation and biodiversity improvements on private land.

Many landholders do not have sufficient resources to tackle these challenges without additional support. By investing in biodiversity programs on private land Council can extend the reach of positive outcomes.

There is immense value in conserving biodiversity on private properties as this not only contributes to ecosystem services and habitat, but also improves landscape amenity and connectivity.

In Ballina Shire 84% of land is privately owned, and around 60% is zoned as rural land (Figure 1).

Although urban biodiversity is especially important in providing habitat and wildlife corridors, a sizeable proportion of the Shire's biodiversity values are located on private rural land.

This presents opportunities for collaboration and partnerships between the community, landholders (particularly rural landholders) and government, to enhance biodiversity conservation.

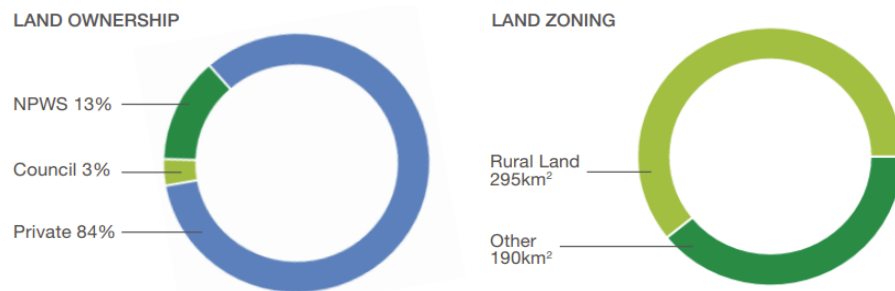


Figure 1: Proportion of land ownership and zoning within Ballina Shire (Ballina Shire Biodiversity Strategy 2023)

This report explores potential options that Council could pursue to advance the conservation of biodiversity on private land.

Key Issues

- Options for supporting biodiversity conservation on private land.
- Barriers to landholder participation and uptake in such programs.
- Funding opportunities and limitations.

Discussion

Ballina Biodiversity Strategy 2023-2033

Council's Biodiversity Strategy recognises the importance of collaborating with and supporting landholders and the community to improve biodiversity conservation in Ballina Shire.

One of the four themes of the Strategy is *Collaborate*, with four objectives and 12 actions specifically focussed on working with and assisting private landholders and community groups / organisations on conservation initiatives.

Essentially landholder engagement and collaboration is an adopted policy position of Council under its existing strategy. The scope and speed of outcomes is dependent on the extent to which the strategy's implementation is resourced.

The approaches outlined, below support achievement of the established objectives and actions set out in the biodiversity strategy.

Options for landholder support

Landholder Grants

Once-off cash grants are one of the most common financial incentives utilised by government organisations, including local governments, to achieve biodiversity outcomes on private land (e.g. revegetation, stock exclusion).

This normally requires an in-kind contribution from the landholder of either cash or labour to ensure project viability.

8.5 Biodiversity Conservation - Landholder Incentives

Councils such as Lismore City Council (LCC) have established a Rural Landholder Initiative (RLI) to provide ongoing and specialised support to landholders. Under this program LCC has funded 218 on-ground projects and undertaken weed control and bushland restoration on 360ha of private land.

Council staff are currently administering a small grants program similar to LCC's RLI to aid in the restoration and creation of koala habitat in the LGA.

In 2022 Council allocated \$100,000 in funding for the restoration of koala habitat, and this has been supplemented with an additional \$100,000 from the State Government as a part of the NSW Koala Strategy.

Approximately \$15,000 of these funds has been needed for project administration, including for specialist site inspections and project management.

It is projected that up to 50 ha of koala habitat will be restored using this funding. The average cost per hectare is \$9,200 (including matched in-kind contributions). However, a substantial portion of these properties will be undertaking assisted regeneration which provides greater value for money compared to other works.

The average cost per hectare for landholder grants will vary depending on original site condition, vegetation community, soils, proximity to significant seed sources, and the expected final condition of the site.

For instance, LCC's average cost per hectare for its RLI is about \$7,500/ha, whereas Central Coast Council has advised that their landholder support programs have been closer to \$20,000/ha due to the need to engage contractors for project management.

Applications for the Koala Habitat Restoration Small Grants have demonstrated there is significant community interest in funding assistance.

There was a total of 70 applications, and many more landholders expressed interest in programs targeted at rainforest restoration.

If future grant programs are run, it would be beneficial to offer non species/ ecosystem specific funding to cater for a broader range of biodiversity projects and land types.

Generic biodiversity grants would greatly enhance biodiversity outcomes for a range of flora and fauna, as well as ecosystem services.

Additionally, the best biodiversity outcomes are normally achieved when the funding is sufficient to allow for recurrent on-groundwork and follow up maintenance for a period of time.

Many bush regeneration projects require periodic weed management to achieve the best results in the longer term.

Labour and Materials Support

Labour support for biodiversity conservation can involve funding for professional paid and/or voluntary teams assisting in the restoration of native habitat on private land e.g. weed control.

8.5 Biodiversity Conservation - Landholder Incentives

Additionally, landholders could be provided with fully or partially subsidised materials such as fencing, seedlings, or stock watering infrastructure as part of an incentives program.

Several organisations, including local governments, have provided material support for biodiversity conservation purposes.

Field Days and Workshops

Capacity building programs provide landholders with expert knowledge in a group setting, typically through field days or workshops.

This support mechanism is commonly and routinely offered by industry groups and government organisations. Local governments can also play a significant role in disseminating locally relevant information for biodiversity conservation purposes.

Under LCC's RLI, free field days that focus on practical land management techniques are offered to landholders. These field days often showcase a property which has received funding through the RLI grant program and is an extremely beneficial method for sharing local knowledge.

Council, in partnership with Richmond Landcare will be hosting a free koala conservation field day on a recipient property of the Koala Habitat and Restoration Small Grants.

The purpose is to provide information on resources and knowledge to landholders, regardless of their success in receiving grant funding.

Educational Materials

Educational materials such as brochures, pamphlets and booklets are a cost-effective method to inform landholders and encourage a change in management practices.

The focus of educational materials can range from awareness raising through to providing technical details on a variety of land management topics e.g. revegetation and habitat management.

This is a relatively cost effective and lasting method to encourage environmental management outcomes over time.

Professional Advice for Landholders

Specialised land management advice could be provided to landholders via an individual site management plan (SMP) prepared by a qualified bush regenerator. SMPs usually detail preferred species plantings, best practice techniques, targeted management zones, and timelines for planting.

The landholder would be required to undertake the on the ground works but would be doing so under the guidance of the specialised advice outlined in the SMP.

Feedback collected during the Koala Habitat Restoration Small Grant EOI indicated that many landholders are unsure what works are suitable to be undertaken on their property. For instance, whether the property is better suited for koala, riparian, or rainforest restoration projects.

8.5 Biodiversity Conservation - Landholder Incentives

Targeted advice to landholders would aim to provide greater clarity and direction to landholders that are already undertaking biodiversity improvements on their land or planning to do so in the future.

Summary Information

Table 1 provides a summary of the range of incentives programs along with some pros and cons of each.

Table 1: Summary of Potential Biodiversity Incentives

Program	Description / features	Pros and Cons
Landholder grants	<p>Once-off grant funding for landholders to undertake biodiversity conservation projects.</p> <p>Landholders generally required to match the funding with an in-kind contribution of either cash or labour.</p>	<p><u>Pros</u></p> <ul style="list-style-type: none"> • Encourages and assists landholders already engaged in restoration practices. • Allows for a greater area of land to be restored as funding is matched with an in-kind contribution. • Over time, can make a direct contribution to increased habitat and biodiversity outcomes. • Matching funding requirement can support assignment of long term value to works by landholders. <p><u>Cons</u></p> <ul style="list-style-type: none"> • Difficult to ensure the works funded are maintained in perpetuity. • Not all landholders have the physical or financial capacity to match the in-kind contribution. • Significant ongoing funding required. • Resource intensive for Council in assessing and managing applications. • Not always possible to ensure that vegetation is not removed post planting.
Labour and materials support	<ul style="list-style-type: none"> • Council contracts professional bush regenerators to undertake work on landholders' properties. • Provides extensive material support in conjunction with labour support. • Includes site visit and discussions with Council staff to ensure site suitability 	<p><u>Pros</u></p> <ul style="list-style-type: none"> • No financial or physical contribution required from landholders, which can allow a greater number of landholders the chance to receive support. • Encourages and assists landholders already engaged in restoration practices. • Over time, can make a direct contribution to increased habitat and biodiversity outcomes. <p><u>Cons</u></p> <ul style="list-style-type: none"> • Greater risk that the project will not be maintained long term.

8.5 Biodiversity Conservation - Landholder Incentives

Program	Description / features	Pros and Cons
Capacity building programs	<ul style="list-style-type: none"> • Events that target topics of landholder interest including bush regeneration methods, erosion control, and fauna detection and monitoring techniques. • Partnering with locally relevant organisations to pool resources and learn from previous experiences. • Hosting several events both over time and throughout the LGA to encourage landholder participation. 	<p><u>Pros</u></p> <ul style="list-style-type: none"> • Generates strong community engagement. • Cost effective method of sharing knowledge to a large group. • Provides on the ground examples and teaches local best practice methods. • Enables landholders to incorporate biodiversity conservation into their land management practices at a scale and time of the owners choosing. <p><u>Cons</u></p> <ul style="list-style-type: none"> • Does not necessarily result in direct vegetation plantings.
Educational materials	<ul style="list-style-type: none"> • Utilise existing education materials on biodiversity conservation to create an information package targeting individual land-uses. • Disseminate education materials and information package at field days, workshops as well as through the Council website. • Reinforces the conservation messages of biodiversity focused education materials. 	<p><u>Pros</u></p> <ul style="list-style-type: none"> • Can easily tailor information and resources for topics that are in demand. • There are a multitude of existing resources. • Low resource intensity and has the potential to reach a large audience. • Materials can have long lasting benefit. • Enables landholders to incorporate biodiversity conservation into their land management practices at a scale and time of the owners choosing. <p><u>Cons</u></p> <ul style="list-style-type: none"> • The target audience is not always aware the material exists e.g. information on the website can exclude landholders that are not tech savvy. • Does not necessarily result in direct vegetation plantings.
Professional advice	<p>Provision of specialised advice to landholders in the form of a Site Management Plan (SMP) that is prepared by a qualified bush regenerator.</p>	<p><u>Pros</u></p> <ul style="list-style-type: none"> • Property specific advice is provided to the landholder. • Lower resource intensity than landholder grants, but still likely to deliver beneficial on the ground outcomes. • Less administrative and monitoring requirements for Council staff. • Assist landholders with grant applications.

8.5 Biodiversity Conservation - Landholder Incentives

Program	Description / features	Pros and Cons
		<u>Cons</u> <ul style="list-style-type: none">• No guarantee the landholder will undertake the work outlined in the SMP.

Barriers to Landholder Participation

When assessing incentive programs, and how they may or may not meet community and environmental needs, the following potential barriers need to be considered:

- Requiring in-kind contributions for grants may not be feasible for all landholders due to financial and physical limitations. The inability to provide an in-kind contribution may exclude landholders that otherwise have properties with high biodiversity value that could benefit from conservation works.
- The application process for grants can be time intensive and this can be a deterrent for many landholders.
- Ensuring landholders are aware that grants, workshops, or other opportunities exist. This can be an issue even if there has been promotion through multiple information channels.

For instance, during the EOI period for the Koala Small Grants, the grant was promoted through various channels such as Council's website, social media, and a letter box drop. Many landholders were not aware of the program until they received notice via direct letter. Measures to consistently raise and maintain awareness requires ongoing resourcing.

Landholder Engagement

Landholder engagement forms part of the implementation of the adopted biodiversity strategy. This engagement can include consultation targeted around incentive programs to provide Council insight into the demand and preferences for support, and in turn ensure that the correct programs are established.

This information can be collected through methods such as surveys and landholder engagement workshops (including in association with existing programs).

Feedback can be utilised to inform approaches to the delivery of actions set out in the biodiversity strategy.

Delivery Program Strategy / Operational Plan Activity

Support for landholders to undertake biodiversity conservation is identified in Council's adopted Delivery Program and Operational Plan as follows:

- HE3.2i Implement Biodiversity Strategy.

Community Engagement Strategy

Community consultation was not undertaken to inform the contents of this report. However, informal community feedback gathered from Council's current environmental projects was considered, as well as information from other local

8.5 Biodiversity Conservation - Landholder Incentives

government organisations. Further targeted engagement is proposed to ascertain landholder preferences for an incentives program.

Financial / Risk Considerations

Actively encouraging biodiversity conservation on private land and the associated achievement of significant biodiversity outcomes requires on-going funding.

Council allocated \$50,000 for the implementation of the biodiversity strategy (including Council's Koala Management Strategy) in 2023/24. In 2024/25 this increases to \$75,000.

The long-term financial plan subsequently provides for an increase of \$25,000 each year until 2033/34, when \$300,000 is identified to implement the Biodiversity Strategy and Koala Management Strategy.

The allocated budget currently supports the progressive delivery of 71 Biodiversity Strategy actions and 48 Koala Management Strategy actions, many of which are high resource intensity and require considerable time and financial input.

For example, action 4.3.1 of the Biodiversity Strategy includes an action to establish a long-term rural landholder extension support program to increase positive environmental outcomes. This is listed as a medium priority high resource intensity activity with an initial cost in the order of \$100,000 - \$300,000.

Long term implementation would require further funding with the quantum to be determined through the establishment of the program.

Any future landholder incentives program will need to be balanced with the other actions and objectives of the Strategy.

As discussed in this report, the cost per hectare for small grants can range anywhere from \$7,500 - \$20,000 plus depending on site variables. Under Council's existing budget allocation, it is likely that only a few small grant projects could be funded per year.

Therefore, additional resourcing options and intended outcomes will need to be considered if a broad scale revegetation and restoration program is to be implemented.

Other funding sources include external grant funding sources (e.g. NSW Environmental Trust). However, these grants are opportunistic, often ecosystem or species specific, and applications are not always successful.

Solely relying on this approach for funding can lead to a fragmented delivery of biodiversity conservation outcomes on the ground.

Other Council programs such as open spaces vegetation restoration projects and environmental restoration projects associated with Council's healthy waterways program also contribute substantially to the desired outcomes of the biodiversity strategy whilst also delivering other objectives.

8.5 Biodiversity Conservation - Landholder Incentives

The Biodiversity Strategy budget in the coming years does have the capacity to fund smaller landholder incentives such as field days, workshops, educational materials, and professional advice. There may also be scope for a small landholder grant program.

Work to establish scope, more detailed costings, and the potential for external funding for programs forms part of the intended work program for implementation of the strategy.

However, there are a range of programs for implementation of the biodiversity strategy in the current year already committed. These include threatened species habitat mapping, implementation of the koala habitat small grants program, establishment of a voluntary planning agreement and vegetation management plan framework to support development related biodiversity outcomes and preparation of DCP based biodiversity planning provisions aligned with the biodiversity strategy.

This does leave limited capacity in the work program for other initiatives in the shire term.

Essentially the current biodiversity strategy implementation program is based on an incremental but sustained delivery of strategy actions over a ten year period.

Options

The options for providing incentives to landholders to support biodiversity conservation are provided for information.

The intended approach in relation to these incentives is to first gather landholder feedback to inform program development and potential costings for implementation in future years under the delivery program.

In the meantime, staff will continue to undertake opportunistic education initiatives and seek grant funding opportunities for restoration and other environmental enhancement works that are aligned with the adopted biodiversity and koala management strategies.

RECOMMENDATION

That Council notes the contents of this report on the options available to support landholders to undertake conservation and biodiversity improvements on private land.

Attachment(s)

Nil

8.6 Wollongbar Sports Fields - Extension of Lease

8.6 Wollongbar Sports Fields - Extension of Lease

Section Open Spaces

Objective To outline a request from the NSW Reconstruction Authority for an extension to the lease for temporary housing located on the Wollongbar sports fields site

Background

The Wollongbar Sports Fields are Council owned Community Land located at 80 Elvery Lane, Alstonville (Lot 2 DP1168781). They consist of playing fields, sports amenities buildings, netball courts, a tennis court complex and car parking.

Following the floods in our region in February and March 2022, the New South Wales Government identified part of the Wollongbar Sports Fields as a preferred site for temporary housing for flood-affected people within the Northern Rivers region.

In response to a request from (then) Resilience NSW, Council granted a two year lease over part of the playing fields to Resilience NSW. The playing field area selected did not have field lighting installed and was not in use at the time. The lease commenced on 14 April 2022 and was initially due to expire on 13 April 2024.

In May 2023, the NSW Reconstruction Authority requested a one year extension of the lease. Council resolved to grant the extension with the new lease expiry date becoming 13 April 2025.

The lease has enabled the New South Wales Government to construct and operate the first temporary housing village for flood-affected people from the Northern Rivers region. North Coast Community Housing, a community housing provider, was appointed by the State to allocate accommodation to flood-affected people within the village, to carry out day to day management of the village and to provide on-site security.

Council's understanding is that the village hosts around 100 self-contained units. This includes pods and caravans ranging in size from studio to four bedroom accommodation.

The NSW Reconstruction Authority has requested a further extension to the lease, being for a period of two months. This would change the lease expiry date to 13 June 2025. A copy of the correspondence is included as Attachment 1. This report seeks Council's direction on the further extension.

Key Issues

- Benefit of the temporary housing and challenges with long term housing for residents
- Restriction on use of the sports fields while housing is located on site
- Intended temporary nature of the housing

Discussion

The current lease terms incorporate:

- construction and operation of the temporary housing
- housing of flood-affected people
- removal of the temporary housing
- reinstating the property to its condition prior to the construction of the temporary housing and associated infrastructure.

The NSW Reconstruction Authority has advised that it needs a further two month extension to allow additional time to support the transition of remaining residents into alternate accommodation and undertake the required site make good works.

In association with the previous lease extension, the Reconstruction Authority advised of its intention to implement plans for decommissioning of the temporary housing in line with the 2025 lease expiry date.

In early July 2024 the authority held a meeting with residents and issued correspondence outlining the decommissioning of the temporary housing. The authority has foreshadowed supporting residents moving from the housing by November 2024.

Delivery Program Strategy / Operational Plan Activity

The lease arrangements broadly align with Council's Connected Community and Engaged Leadership Community Strategic Plan directions. More specifically, the provision made for the temporary housing aligns with Delivery Program Strategy CC2.3 - Assist disadvantaged groups within our community.

Community Engagement Strategy

Given the relatively short period proposed for the lease extension (two months), engagement with the wider is not recommended.

Financial / Risk Considerations

The current lease provides for the payment of rent for use of the site to Council. It is anticipated that this would continue on a pro rata basis should an extension to the lease be granted.

There are no outgoing costs to Council as the tenant also pays for its own water, electricity, and other services. The revenue from the rent is currently transferred to reserve for future use by Council.

There are no significant site management risks to Council arising from the continuation of the lease for a further two months.

Options

Option One: Extend the lease by two months (making the lease expiry date 13 June 2025) at the current rent (on a pro rata basis).

8.6 Wollongbar Sports Fields - Extension of Lease

Option Two: Do not extend the lease (keeping the existing expiry date of 13 April 2025).

Extension of the lease for two months provides some additional time for the Reconstruction Authority to find alternate accommodation arrangements for residents and meet its site restoration requirements.

This is reasonable having regard for the challenges being experienced in the provision of housing in the region.

It is important to recognise that the housing is located on community land that is for sporting uses.

It is also located on land that is zoned for environmental protection purposes and is not intended for urban land use under local or State planning policy.

Therefore, the intended temporary nature of the housing is a key consideration when balancing restoration of the site with ongoing lease arrangements.

Given the short time frame involved, the Reconstruction Authority's commencement of engagement with residents and in recognition of the circumstances associated with provision of alternate accommodation requirements for existing site residents, it is recommended that Council grant the requested two-month lease extension, with a new expiry date of 13 June 2025.

RECOMMENDATIONS

1. That Council approves the extension of the lease to the NSW Reconstruction Authority on part of the Wollongbar Sports Fields by two months (making the lease expiry date 13 June 2025) based on the application of the current annual rent on a pro rata basis.
2. That Council affix the Common Seal to the lease variation documents.

Attachment(s)

1. NSW Reconstruction Authority - Request for Lease Extension - Wollongbar Temporary Housing [↔](#)

8.7 Policy (Review) - Voluntary Planning Agreements

8.7 Policy (Review) - Voluntary Planning Agreements

Section	Strategic Planning
Objective	To review the Voluntary Planning Agreements 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 Voluntary Planning Agreements policy.

Council first adopted this policy in 2007. The policy sets out Council's policy and procedures relating to Planning Agreements under section 7.4 of the *Environmental Planning and Assessment Act 1979* (the Act).

A Planning Agreement is a voluntary agreement between Council and a developer that allows developers to contribute towards a public purpose. Contributions include dedication of land, monetary contributions, public infrastructure, community facilities or affordable housing, or any other material public benefit.

Planning agreements are separate from but complement Council's Contributions Plans prepared in accordance with the Act.

To date, Ballina Shire Council has executed eight Planning Agreements with developers across various sites, two of which have been in connection with development applications.

It is intended that Planning Agreements will be increasingly used to achieve the objectives of Council's adopted strategies, including the Biodiversity and Housing Strategies. To assist development proponents, it is intended that templates will be used to identify the outcomes Council is seeking to achieve.

The review of the Voluntary Planning Agreements Policy has resulted in relatively minor changes being recommended, as outlined in this report.

A copy of the amended policy is included as Attachment 1 with proposed changes marked in yellow shading for new text or red strike-out for deleted text.

Key Issues

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

8.7 Policy (Review) - Voluntary Planning Agreements

Discussion

The review of this policy identified changes that are relatively minor in nature as follows:

- Remove the word 'voluntary' from the title and elsewhere in the Policy to reflect the description in the Act and regulation. The Policy will then be known as the Planning Agreements Policy
- Delete requirements that are contained in the legislation or in Practice Notes prepared by the Department Planning, Housing, and Infrastructure (DPHI). This removes unnecessary duplication and provides a more succinct document that is easier to read
- Insert reference to Complying Development Applications
- Update references to NSW Government Practice Notes and Directions
- Insert new objectives for Council's use of planning agreements to include reference to affordable housing, biodiversity conservation offsets and the capture of land value uplift resulting from rezoning or variation of a planning control
- Replace reference to Land and Property Information with NSW Land Registry Services
- Insert reference to template Planning Agreements. To assist development proponents and Council staff when negotiating agreements, templates can be used for matters such as biodiversity conservation, public art contributions and affordable housing
- Edit wording to provide greater clarity, remove unnecessary duplication and superfluous wording and improve readability.

The inclusions have been marked in yellow. Deletions are shown with a cross out.

Otherwise, the policy is still considered to be contemporary and reflects current legislation and no further changes are recommended. A copy of the amended policy is included as Attachment 1 to this report.

Delivery Program Strategy / Operational Plan Activity

Maintaining a contemporary Planning Agreements Policy supports sound governance in relation to Council's planning functions.

Community Engagement Strategy

As the changes are relatively minor in that they do not substantially change the operation of the policy, 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.

8.7 Policy (Review) - Voluntary Planning Agreements

Financial / Risk Considerations

The State Government recommends that local councils have local policies in place for the application and preparation of planning agreements.

Options

Council may accept or amend the proposed changes to the policy. The changes included are overall minor in nature. Therefore, it is recommended that the policy be adopted as presented.

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

RECOMMENDATIONS

1. That Council adopts the amended Planning Agreements 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, no further action is required.

Attachment(s)

1. Planning Agreements Policy as amended [⇒](#)

8.8 Policy (Review) - Developer Contributions Investment Incentive

8.8 Policy (Review) - Developer Contributions Investment Incentive

Section	Strategic Planning
Objective	To review the Developer Contributions Investment Incentive 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 Developer Contributions Investment Incentive Policy.

The Developer Contributions Investment Incentive Policy was adopted in September 2018. At that time the policy made provision for a Small Business Incentive. It also incorporated the existing Secondary Dwelling Incentive.

The Small Business Incentive provides for a 100% waiver of the roads' developer contribution, and Council's water and sewerage charges. It applies where a change of use of an existing business premises is proposed in a business zone. The incentive is limited to business premises with a gross floor area not greater than 200m².

The Secondary Dwelling incentive was adopted by Council in February 2014 for an initial two-year period. The policy provided for the 100% waiver of certain developer contributions and charges for secondary dwellings (with a maximum floor area of 60m²) in response to declining dwelling occupancy rates, lack of diversity in housing stock, and the aging of the Ballina population. Rous Water at that time also agreed to waive its bulk water contributions in cases that met the criteria.

In February 2018 Council reviewed the Secondary Dwelling Incentive and resolved that it be continued. Continuation was subject to the previously established design criteria but reduced the incentive to 50% discount where the secondary dwelling was detached from the principal dwelling. This was done to encourage improved design outcomes.

In September 2020 the Developer Contributions Investment Incentive Policy was amended to incorporate a Place Activation – Private / Public Land Incentive. This incentive provides for a 100% waiver for contributions payable with respect to the increase in commercial floor space associated with alfresco dining or the display of goods for sale. It relates to certain outdoor private property accessible to the public with a limit of 25m² per commercial property.

On 1 November 2021 Rous Water discontinued its contribution waiver policy for secondary dwelling applications lodged after this date. Rous Water contributions in 2023 typically amounted to approximately \$3,700, \$5,500, and \$7,400 depending on whether the secondary dwelling has 1, 2 or 3 bedrooms.

This review of the Developer Contributions Investment Incentive Policy recommends that all existing incentives are retained, and the Policy be maintained in its current form with some relatively minor amendments.

8.8 Policy (Review) - Developer Contributions Investment Incentive

A copy of the amended policy is included as Attachment 1. Proposed changes are marked in yellow shading for new text or red strike-out for deleted text.

Key Issues

- Whether the policy meets the requirements of Council and current legislation
- Affordable housing / variety in housing stock
- Private and public benefit from developer contributions payable

Discussion

Summary of Proposed Amendments to Policy

This policy review has identified relatively minor changes as follows:

- Replace the word discount with waiver where 100% of the developer contributions are waived,
- Incorporate revised zone references to mirror zone changes incorporated into Ballina LEP 2012 in December 2022 by the Department of Planning, Housing and Infrastructure (DPHI) as part of its employment zone reforms
- Provide consistency between definitions contained within the policy and Ballina LEP 2012
- Incorporate the definition of commercial premises as contained in Ballina LEP 2012
- Update references to Council's contributions plans
- Clarify that there is no longer a Rous Water contribution waiver for secondary dwellings
- Extend the policy review period from 12 months to 4 years to provide consistency with other Council policies and
- Include complying development applications in the application of the secondary dwelling incentive.

Small Business Incentive, and Place Activation – Private / Public Land Incentive

This aspect of the policy is not typically utilised. This may be due to provisions contained in the *Exempt Development Code*, (part of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*), which permit certain changes of use, and outdoor dining, without development consent, subject to compliance with prescribed development standards.

Given the differences between what Council's policy permits without attracting a contribution, and what is exempt under the State code, it is considered that there is still some benefit in retaining the small business and place activation incentives.

That is, the policy provides some wider opportunities for business than the State policy provisions, and it is recommended that this approach is retained, for the time being.

8.8 Policy (Review) - Developer Contributions Investment Incentive

Potential expansion of small business incentive

Staff are currently reviewing whether the small business incentive should be expanded to include other businesses not currently captured, including gymnasiums proposed in an existing building in commercial areas (E1 Local Centre, E2 Commercial Centre and MU1 Mixed Use zones).

This matter will be reported separately to Council when the review is complete.

Secondary Dwelling Incentive

A review of the impact of the secondary dwelling incentive has been undertaken and is detailed in Attachment 2 to this report.

The review compared the three year period 2015 to 2017 with the three year period ending on 31 December 2023.

In the 2015 to 2017 period 106 secondary dwellings were approved that met the criteria for a contributions' waiver.

In the current review period, 2021 to 2023, 88 secondary dwellings that met the criteria were approved.

This indicates that there continues to be a significant uptake of this development form.

Impact of reducing discount to 50% for detached Secondary Dwellings

Since February 2018 the complete waiver of contributions for detached secondary dwellings has been replaced with a 50% discount.

The policy change was adopted to drive design changes aimed at reducing visual amenity and streetscape impacts. It also sought to obtain better visual integration between an existing dwelling and the proposed secondary dwelling.

As outlined in Attachment 2, there is limited comparison data available for the previous review period to allow for a complete analysis of the impact of the policy change.

However, in the period 2021 to 2023 approximately 60% of secondary dwellings approved were detached.

In Cumbalum, one of Ballina's new residential release areas, the majority of waiver-compliant secondary dwellings approved in the 2021 to 2023 period, were attached with most forming part of new build project homes.

This type of housing product was not evident when the policy was reviewed in 2018.

Attachment 2 contains examples of approved secondary dwellings between 2021-2023.

It is concluded that the impact of reducing the contribution waiver from 100% to 50% for detached secondary dwellings has not acted as a significant disincentive for this housing style within the review period.

8.8 Policy (Review) - Developer Contributions Investment Incentive

Developer contributions foregone

In the three year period to 31 December 2023, the average contribution waived for attached secondary dwellings was approximately \$18,800, while for detached secondary dwellings, it was approximately \$9,700.

Assuming all secondary dwellings have been constructed, the total contributions foregone amounts to around \$1.175m.

In the 2015-2017 period, approximately \$1.7m in contributions were foregone.

The revenue foregone in providing the contributions waiver / discount must be considered in the context of the ongoing importance of encouraging greater housing diversity to meet the changing housing needs of residents, in particular, smaller household size.

Waiving contributions is one of the few effective policy levers available to Council to achieve its housing objectives.

Additionally, while secondary dwellings that meet the contribution waiver criteria generate a demand for services and facilities above that generated by a single dwelling, there is sufficient infrastructure capacity to accommodate the additional demand, particularly given the relatively small size of the dwellings.

Use of Secondary Dwellings as Short-Term Rental Accommodation (STRA)

NSW Fair Trading maintains a register of STRA, and it is mandatory for homeowners to be registered if proposing to offer their dwelling as STRA.

As of December 2023, of 903 registrations for Ballina Shire, 608 were active.

This represents approximately 3% of the shire's private dwelling stock.

Non active entries typically relate to premises which at one time were registered but where the registration was not renewed.

The STRA register lists 45 active secondary dwelling entries. When these were further examined, it was found that 17 were secondary dwellings approved under the fee waiver scheme.

Eleven (13%) of the secondary dwellings approved in the 2021–23 period were at one time listed as active on the STRA register.

For secondary dwellings approved in 2021 only three of the five listings were recorded as active.

Further review of the data in the STRA register indicates that some dwellings were incorrectly described as secondary dwellings. Alternatively, some entries nominated as dual occupancy were approved as a secondary dwelling.

It is concluded from this analysis that the use of secondary dwellings, approved under the fee waiver scheme, for STRA is not significant enough to warrant a change in the policy. It is also evident that many homeowners use their dwellings for STRA at points in time, but do not maintain a long-term registration.

8.8 Policy (Review) - Developer Contributions Investment Incentive

Retention of secondary dwelling incentive

It is considered that the secondary dwelling contribution waiver / discount has been a successful policy intervention that has met Council's objectives and led to a sizable increase in new smaller dwellings throughout the shire's urban areas.

It is also consistent with the Ballina Shire Housing Strategy 2024 adopted by Council at the 23 May 2024 Ordinary meeting.

No substantive changes to the secondary dwelling incentive are proposed. However, the Housing Strategy includes an action (Action 14) to investigate the utility of discounting infrastructure contributions to encourage targeted housing types.

This investigation will extend to other forms of housing Council is seeking to encourage, such as medium density housing. At that time, the current secondary dwelling incentive may be discontinued in favour of other contributions related housing initiatives.

Delivery Program Strategy / Operational Plan Activity

This policy is consistent with the 2023-24 to 2026-27 Delivery Program and Operational Plan Prosperous Economy Directions:

PE1.2 Provide opportunities for new business,

PE3.2 Facilitate residential land – including for more affordable housing.

Community Engagement Strategy

As the changes are relatively minor in that they do not substantially change the operation of the policy, 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 has been no significant financial impact in terms of the *Small Business Incentive*, and the *Place Activation – Private / Public Land Incentive*, as these policy elements do not appear to have been widely applied.

In respect to the *Secondary Dwelling Incentive* the impact of this for the three-year period 2021 to 2023 totals approximately \$1,175,000 in developer contributions foregone.

8.8 Policy (Review) - Developer Contributions Investment Incentive

Options

The following options are available:

Option 1 – Adopt the amendment of the policy and undertake public exhibition.

This option involves updating the Developer Contributions Investment Incentive Policy, as outlined in the body of this report, and detailed in Attachment 1. It also involves the exhibition of the policy.

If any submissions are received during the public exhibition period, the matter would be reported to Council for further consideration. If no submissions are received, no further action is required.

This is the recommended option as it maintains the status quo in respect to the small business and place activation incentives. In so doing it gives Council greater flexibility to approve proposals that may fall outside the State Exempt Development Code without applying contributions.

In respect to secondary dwellings, it also maintains the status quo. It would retain a policy initiative that has been successful in its encouragement of a small dwelling type particularly at a time of housing shortage.

Option 2 – Amend the policy to remove reference to unused elements and either adjust or amend or delete the secondary dwelling waiver / discount amounts.

Removing reference to the small business and place activation incentives is not supported for the reasons contained in this report.

Council could remove, increase or reduce the secondary dwelling waiver / discount amount. This is not recommended as this policy has been successful in terms of its encouragement of a small dwelling type at a time of housing shortage.

It is also noted that a review of incentives for other forms of desired housing will occur in the future, at which time Council could chose to remove the secondary dwelling incentive.

RECOMMENDATIONS

1. That Council adopts the amended Developer Contributions Investment Incentive Policy, as per Attachment 1 to this report.
2. That Council place the policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, no further action is required.

Attachment(s)

1. Policy (Review) - Development Contributions Investment Incentives [⇨](#)
2. 2024 Review of Secondary Dwelling Contributions Incentive [⇨](#)

8.9 Policy (Review) - Events on Public Land

8.9 Policy (Review) - Events on Public Land

Section Open Spaces

Objective To review the Events 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 review the Events on Public Land policy.

Council first adopted this policy in September 2002.

The objectives of this policy are:

- a) to provide a documented process describing how event organisers may obtain approval to hold an event on public land in Ballina Shire including parks, open spaces or streets
- b) to ensure that event organisers are aware of Council's requirements to assist and encourage the efficient organisation of events; and
- c) to ensure that event organisers receive requisite approvals in a timely and orderly manner.

Key Issues

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

Discussion

This review of this policy identified only minor changes in wording and format.

The changes have been marked in yellow.

Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended policy is included as Attachment 1 to this report.

Delivery Program Strategy / Operational Plan Activity

This policy is consistent with:

Direction outcome CC2 – We Feel Connected to the Community and is specifically linked to CC2.1 – Create events and activities that promote interaction and education, as well as a sense of place.

Community Engagement Strategy

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

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

Financial / Risk Considerations

This draft policy aims to assist and ensure events coordinated in the shire are compliant with Council's regulatory framework and legislative requirements.

There are no financial implications associated with the revision of this policy.

Options

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

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

RECOMMENDATIONS

1. That Council adopts the amended Events 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 resubmitted back to Council. If no submissions are received, no further action is required.

Attachment(s)

1. Policy (Review) - Events on Public Land [⇒](#)

8.10 Development Applications - Works in Progress - June 2024

8.10 Development Applications - Works in Progress - June 2024

This report provides an overview of current development application activity. The data provided is to the end of the 2023/24 financial year (i.e. to the end of June 2024).

A list of all DAs determined in the 2023/24 financial year is contained in Attachment 1. This list does not include determinations of applications to modify consents, complying development certificate applications and all other related applications.

A list of development applications, not yet determined, that have been under assessment for a period of greater than 90 days is contained in Attachment 2.

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.

Outstanding DAs by Month

The following tables for 2022, 2023 and 2024 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

8.10 Development Applications - Works in Progress - June 2024

Assessment Timeframe	2024					
	Jan	Feb	Mar	Apr	May	Jun
Less than 90 days	58	63	66	45	75	81
90 to 180 days	58	52	42	54	43	40
180 to 365 days	74	58	57	60	53	51
More than 365 days	49	45	41	42	37	36
TOTAL	239	218	206	201	208	208

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.

The previous tables do not show applications that have been received and determined within the quarterly reporting period (i.e. the tables only show applications not yet determined).

Northern Regional Planning Panel DAs under Assessment

The following table provides a summary of DAs classified as regionally significant development that are currently under assessment and will require reporting to the Northern Regional Planning Panel for determination.

DA No.	Applicant	Address	Proposal	Status
2023/537	Bullinah Aboriginal Health Service Limited	18,20 & 22 Grant Street and 109 Tamar Street, Ballina	Demolition of existing buildings and the construction of a two and three storey medical centre and related infrastructure works and landscaping	Application placed on public exhibition until 7 March 2024. Six submissions received, four by way of objection. A Panel briefing was held on 22 May. A Panel site visit was held on 4 June. Applicant is currently addressing further information requested by Council and the Panel.

DA Determination Trend (Financial Year Comparison)

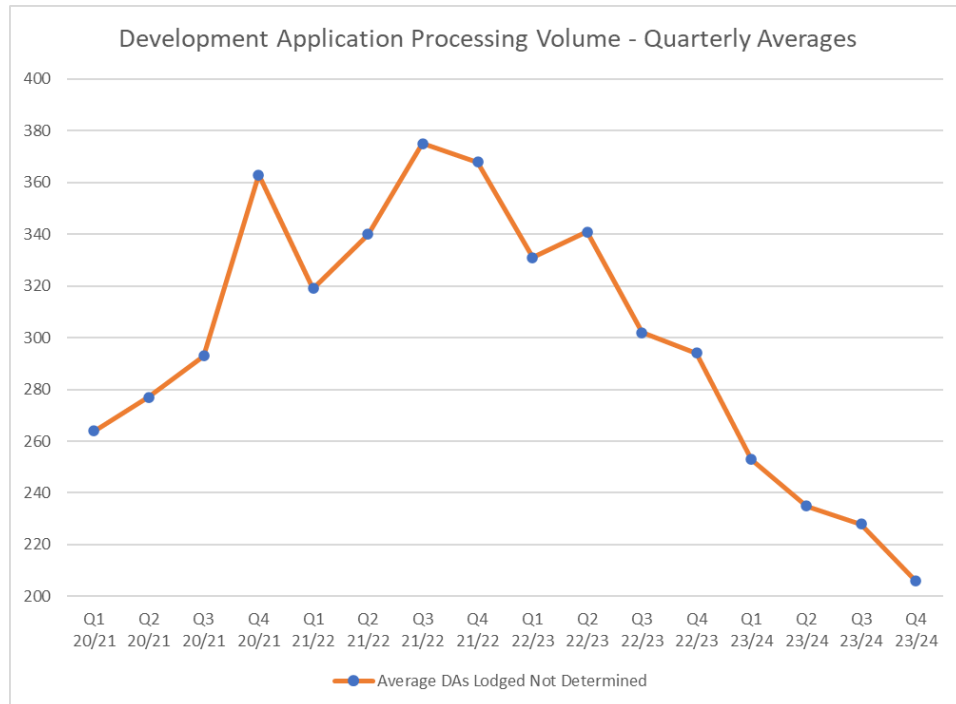
The following chart provides an overview of the volume of development applications lodged but not determined each quarter for the period July 2020 to the end of June 2024.

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

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 year.

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

8.10 Development Applications - Works in Progress - June 2024



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 200 applications under assessment at any one time.

A continuing focus 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 finalise the determination of older applications in the system.

Following the sustained period of high numbers of development applications and subsequent consents issued, there are also other development related services and responsibilities that flow on from when a DA assessment and determination has been completed.

Council's assessment staff are spending a significantly increased proportion of their time on development projects throughout the Shire, as these projects progress through the various stages of construction and completion.

For example, the Development Services Section has a range of responsibilities other than DA assessment including a range of post consent approvals including, subdivision works and subdivision certificate assessment, construction certificate assessment and critical stage building inspections, occupation certificate assessment, section 68 plumbing and drainage inspections and approvals and section 138 Roads Act approvals. The flow on from considerable development and construction activity requires development services staff to be reviewing the progress of development against conditions of consent and follow up enquiries from developers and members of the public.

In addition, there is continued growth in development compliance work, building information certificates, swimming pool barrier compliance inspections and

8.10 Development Applications - Works in Progress - June 2024

certification, essential fire safety programs, provision of planning certificates, address of customer planning and building enquiries and formal pre-DA lodgement meetings.

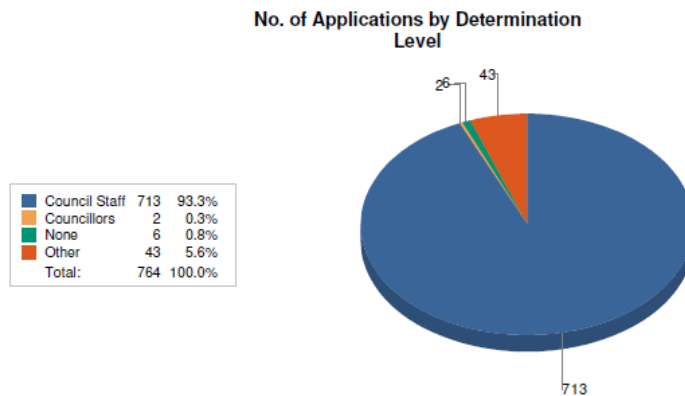
There are also ongoing changes to Council's systems and processes to align with the State Government's planning reform agenda including the operation of the NSW Planning Portal and numerous environmental planning instrument changes.

In a positive development the State has indicated a slowing of change associated with the planning portal, to allow increased focus on ensuring the portal in its current form is operating optimally.

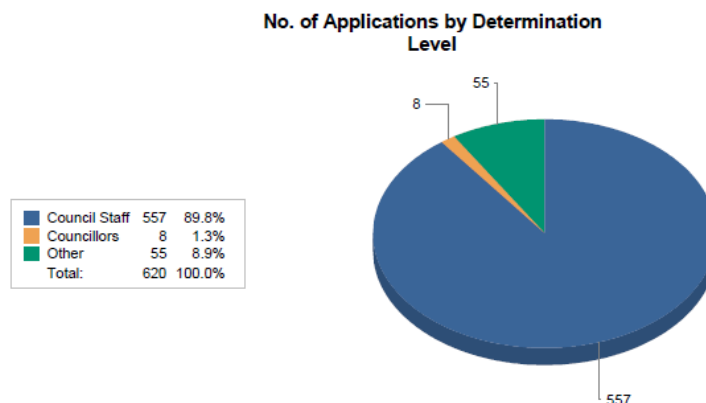
Determination Method

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

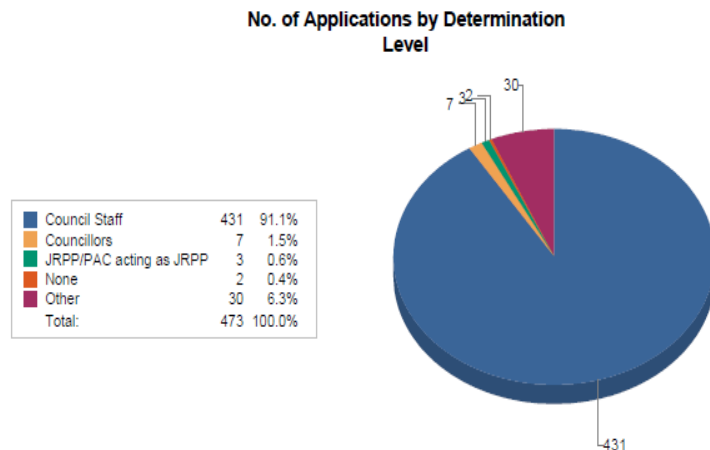


2022/2023



8.10 Development Applications - Works in Progress - June 2024

July 2023 to June 2024



In the July to June 2024 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 2023/24, 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).

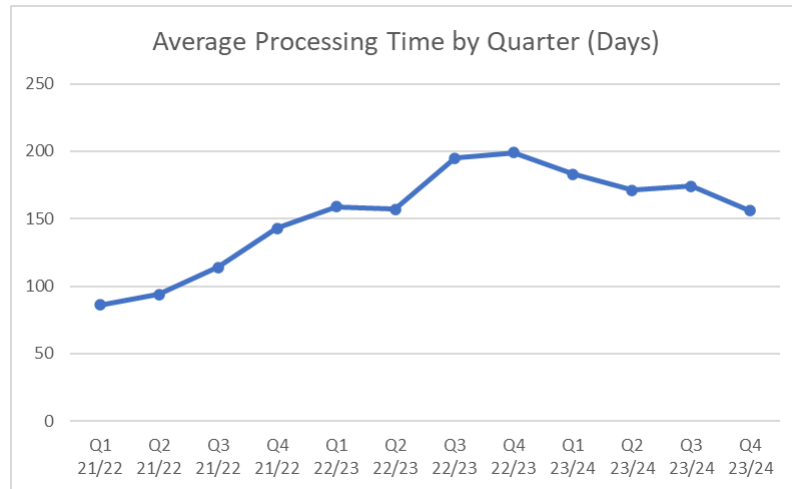
Variations to Standards

In accordance with Department of Planning reporting requirements, the following information is provided on development applications lodged prior to 1 November 2023 where a variation to a development standard of 10% or less (via the BLEP 1987 or BLEP 2012) has been approved by staff under delegated authority in the period April to June 2024.

DA No.	Date Approved	Applicant	Proposal and Address	EPI and Land Zoning	Development Standard and Approved Variation	Justification for Variation
Nil	Nil	Nil	Nil	Nil	Nil	Nil

Processing Time

The following indicates average processing times for DAs by month. The chart shows the trend for the last three financial years via the average monthly 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.

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 month period.

Being able to fill current staff vacancies remains critical to this strategy.

Other current actions to address DA assessment times include a series of draft changes to DCP based planning provisions relating to dwellings (which aim to simplify the assessment process) and allocation of specific DA types to assessment via different workflows (e.g. strata subdivision).

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 during 2023/24 is 20% lower compared to applications submitted in 2022/23.

Volume is not the only influence on the key assessment indicators.

8.10 Development Applications - Works in Progress - June 2024

The type of applications received is also a factor and there have been an increasing volume of enquiries and applications relating to substantial residential subdivisions, commercial, mixed use and multi storey developments.

There is a trend indicating that it is likely Council will see a greater proportion of this type of development proposal during 2024/25.

	Year						
	17/18	18/19	19/20	20/21	21/22	22/23	23/24
No. of DAs Submitted	861	890	976	1,093	1,020	759	602
% Change	N/A	+3.4%	+9.7%	+12%	-7.2%	-25%	-20%

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, 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.

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 and Port Stephens Council.

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 sustained over several years, 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 program was introduced during 2022/23.

8.10 Development Applications - Works in Progress - June 2024

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. Nine DAs were assigned to the Flying Squad in 2023/24. At the end of June this year, the State Government closed this program, and a number of applications were returned to Council.

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

Overall, 175 DAs have been determined and 58 are being assessed under Council's external assessment program.

Development Assessment Review Process

Following on from Council's June 2024 resolution to engage an independent consultant to assess options that could be implemented to improve development assessment times, arrangements are currently being made to commence a review.

The review process will incorporate consideration of the Minister for Planning's Statement of Expectations Order which came into effect on 1 July 2024 and new development assessment related data that the State Government has commenced publishing this month.

The following link provides information on both of Statement of Expectations Order 2024 and the Monitoring Council Performance data.

[Statement of Expectations Order | Planning \(nsw.gov.au\)](#)

In addition, Council's internal audit program includes an audit of development assessment processes in the fourth quarter of the 2024/25 year.

RECOMMENDATIONS

1. That Council notes the contents of the report on the status of outstanding development applications for June 2024.
2. That Council notes that there were no variations to development standards of 10% or less approved in the period 1 April 2024 to 30 June 2024.

Attachment(s)

1. Development Applications Determined 2023/24 ⇨
2. 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.

US2024/9	<p>1. That Council, in accordance with the relevant provisions of the Local Government Act 1993, enters into the following leases/licences of <i>community land</i>:</p> <table border="1" data-bbox="515 723 1385 1133"><thead><tr><th>Property</th><th>Tenant</th><th>Tenure</th></tr></thead><tbody><tr><td>Lot 371 DP 729061 (Council is Crown Land Manager)</td><td>Tintenbar Tennis Club</td><td>Four-year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$595 per annum plus GST)</td></tr><tr><td>Part Lot 333 DP 755745 (Council is Crown Land Manager)</td><td>Alstonville Tennis Club</td><td>12-month licence at a rent equal to the statutory minimum charged by Crown Lands (currently \$595 per annum plus GST)</td></tr><tr><td>Lot 153 DP 1098090 (Council is Crown Land Manager)</td><td>Ballina Seagulls Football Club Inc</td><td>12-month licence at a rent equal to the statutory minimum charged by Crown Lands (currently \$595 per annum plus GST)</td></tr></tbody></table> <p>2. Council authorises the General Manager to affix the seal to the lease/licence 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/licence 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/licence.</p>	Property	Tenant	Tenure	Lot 371 DP 729061 (Council is Crown Land Manager)	Tintenbar Tennis Club	Four-year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$595 per annum plus GST)	Part Lot 333 DP 755745 (Council is Crown Land Manager)	Alstonville Tennis Club	12-month licence at a rent equal to the statutory minimum charged by Crown Lands (currently \$595 per annum plus GST)	Lot 153 DP 1098090 (Council is Crown Land Manager)	Ballina Seagulls Football Club Inc	12-month licence at a rent equal to the statutory minimum charged by Crown Lands (currently \$595 per annum plus GST)
Property	Tenant	Tenure											
Lot 371 DP 729061 (Council is Crown Land Manager)	Tintenbar Tennis Club	Four-year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$595 per annum plus GST)											
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Lot 153 DP 1098090 (Council is Crown Land Manager)	Ballina Seagulls Football Club Inc	12-month licence at a rent equal to the statutory minimum charged by Crown Lands (currently \$595 per annum plus GST)											
US2024/10	<p>12-month licence agreement between Council as Crown Land Manager of Reserve R82927 and Lennox Combined Sports Association for part Lot 473 in DP 729088 (Williams Reserve), at a statutory minimum rental (\$595)</p> <p>Explanation</p> <p>The NSW State Government has provided a transition period for councils managing crown reserves under the Crown Land Management Act 2016, which commenced on 1 July 2018.</p> <p>Under this framework, Council as Crown Land Manager can issue a short-term licence.</p>												

9.1 Use of Council Seal

US2024/11	<p>12-month licence agreement between Council as Crown Land Manager of Reserve D540004 and Ballina Bowling and Recreation Club for occupation of land for Croquet Lawns and Clubhouse (Part Lot 561 DP119965), at a statutory minimum rental (\$595).</p> <p>Explanation</p> <p>As reported to the May 2021 Ordinary Meeting of Council, the Department of Planning, Industry & Environment – Crown (DPIE-Crown) is still in the process of consolidating the land for the croquet lawns and clubhouse, into the adjoining land (which Council does not manage) in the proposed new lease direct with DPHI-Crown and the Ballina Bowling Recreation Club.</p> <p>As Council has been advised by DPHI-Crown that this consolidation and new direct Lease is still in process, whilst Council remains Crown Land Manager a licence is to be granted to authorise the occupation of the site.</p> <p>As resolved, Council will be formally removed as Crown Land Manager over Lot 561 DP119965 once this has been finalised.</p>
US2024/12	<p>Ballina Shire Council Lease to Property NSW for Lot 1 DP 203166, 89-91 Tamar Street Ballina. The Lease is for a term of 5 years with a 5 year option at market rent.</p> <p>Explanation</p> <p>Property NSW have been in occupation of 89-91 Tamar Street Ballina since 2008. Lease negotiations with Property NSW have now finalised and Property NSW are requesting a new lease over the Site.</p>

Attachment(s)

Nil

9.2 Investment Summary - June 2024

9.2 Investment Summary - June 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.

This report has been prepared to confirm the cash and investments held as at 30 June 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 made during June 2024, have been made in accordance with the Act, the Regulations and Council's Investment Policy.

Key Issues

- Compliance with Investment Policy
- Return on investments

Discussion

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

A copy of the Investment Policy, adopted 27 June 2024, is available on Council's website. The policy is currently on exhibition for public comment.

The total balance of investments, as at 30 June 2024, was \$94.9m, compared to a balance of \$95.9m as at 31 May 2024.

Council's investments, as at 30 June 2024, were invested at a weighted average interest rate of 5.251%, which was 0.867% higher than the June average 90 Day Bank Bill Index (BBSW) of 4.384%.

The balance of Council's Commonwealth Bank business account, as at 30 June 2024 was \$18,713,649, which compares to a balance of \$17,867,175 as at 31 May 2024.

9.2 Investment Summary - June 2024

Total combined cash and investments, as at 30 June 2024 was \$113,613,649 compared to \$113,767,175 as at 31 May 2024.

There was little movement in the cash and investments from May to June. This was due to large creditors payments made leading up to the end of the financial year offset by loan proceeds received of \$4.5m, Financial Assistance Grants received in advance of \$5.1m and capital grant funds received of \$3.7m.

TCorp's monthly Economic Commentary report for June 2024 can be viewed using the following link: tcorp.nsw.gov.au/download/monthly-economic-report-june-2024/?wpdmdl=5184&refresh=668a74a3b6c261720349859

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.

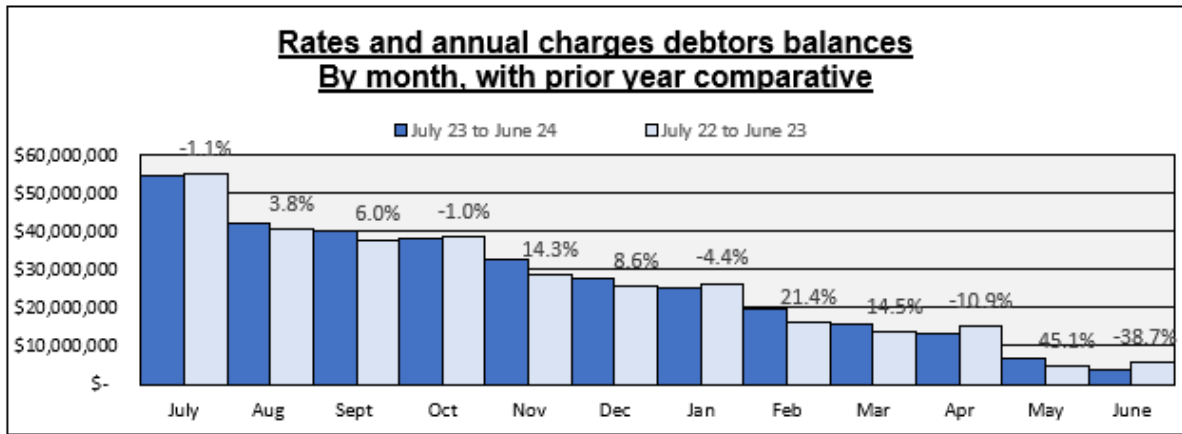
Reserve Name	Restriction	% Portfolio*
Wastewater (incl developer contributions)	External	18.18%
Water (incl developer contributions)	External	15.32%
Section 7.11 Developer Contributions	External	13.40%
Domestic Waste Management	External	1.49%
Bonds and Deposits	External	3.88%
Specific Purpose Unexpended 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%

* Reflects reserves held as at 30 June 2023. This table will be updated for 30 June 2024 as part of the financial statements completion process.

Debtors

As per the following chart, the current balance, as at 30 June 2024, was 38.7% lower than 30 June 2023. This decrease is predominately due to a change in the timing of the water billing cycle. A debtor balance is required to be bought to account, as at 30 June 2024, when the current read is completed. Based on an estimate of the debtor bought to account for the same period in 2023, the percentage difference would be 4.5%.

9.2 Investment Summary - June 2024



A. Investments by Institution

Funds Invested With	Fossil Fuel Free / Green	Rating S&P	31 May \$'000	30 June \$'000	Quota %	% of Total
AMP Bank	No	BBB+	6,000	6,000	20%	6.33%
Australian Unity	Yes	BBB+	5,000	3,000	20%	3.16%
Auswide Bank	Yes	BBB	3,000	3,000	20%	3.16%
Bank of Queensland	Yes	A-	6,000	6,000	20%	6.33%
BankVic	n/a	BBB+	5,000	5,000	20%	5.27%
Bendigo & Adelaide Bank	Yes	A-	1,000	1,000	20%	1.05%
Beyond Bank	Yes	BBB+	2,000	2,000	20%	2.11%
Commonwealth Bank	No	AA-	10,000	7,000	20%	7.38%
Defence Bank Ltd	n/a	BBB+	3,000	3,000	20%	3.16%
Great Southern Bank	Yes	BBB	2,000	-	20%	0.00%
IMB Bank	Yes	BBB	4,000	4,000	20%	4.21%
ING Bank (Australia) Ltd	No	A	17,000	17,000	20%	17.91%
Macquarie Bank	No	A+	1,600	1,600	20%	1.69%
MyState Bank Ltd	Yes	BBB+	2,000	4,000	20%	4.21%
National Australia Bank	No	AA-	12,000	16,000	20%	16.86%
Newcastle Perm Build Society	Yes	BBB+	1,000	1,000	20%	1.05%
Suncorp Limited	Yes	A+	13,300	13,300	20%	14.01%
Westpac Bank Corp	No	AA-	2,000	2,000	20%	2.11%
Total			95,900	94,900		100.0%

Credit Rating Summary as per the Investment Policy	Maximum Allowed		Value 31 May \$'000	Value 30 June \$'000	% 31 May	% 30 June
	%	Value				
A- or Higher	100%	94,900	62,900	63,900	65.6%	67.3%
BBB	60%	56,940	33,000	31,000	34.4%	32.7%
Total			95,900	94,900	100.0%	100.0%

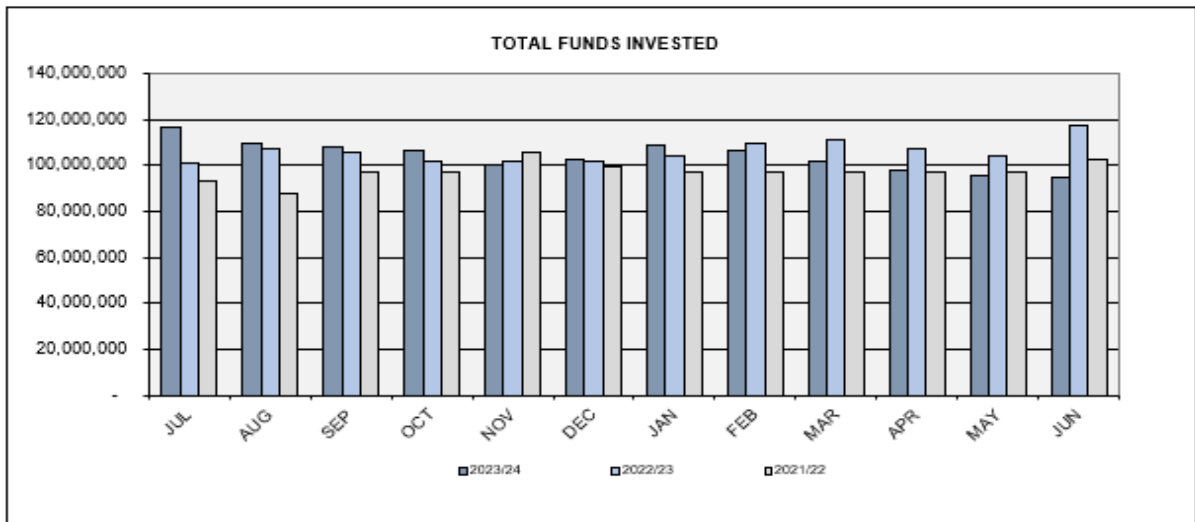
Liquidity Risk Parameters as per the Investment Policy	Maximum Allowed		Value 31 May \$'000	Value 30 June \$'000	% 31 May	% 30 June
	%	Value				
Term equal to 1 year or less	100%	94,900	87,000	86,000	90.7%	90.6%
Term > 1 year and < 3 years	40%	37,960	-	-	-	-
Term > 3 years	20%	18,980	8,900	8,900	9.3%	9.4%
Total			95,900	94,900	100.0%	100.0%

B. Fossil Fuel Free and Green Investments

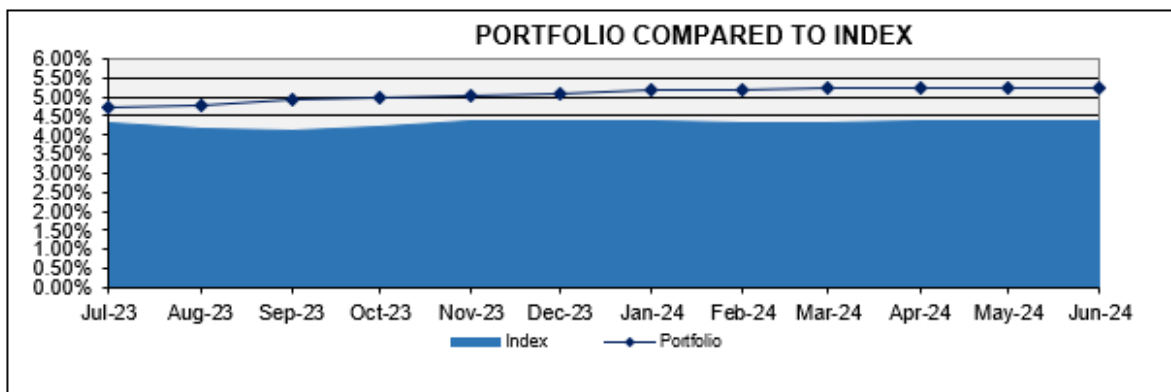
Environmental Classification	31 May		30 June	
	(\$'000)	(%)	(\$'000)	(%)
Fossil Fuel Aligned and Non-Green Investments	48,600	50.7	49,600	52.3
Fossil Fuel Free Investments	39,300	41.0	37,300	39.3
Green Investments	0	0.0	0	0.0
Not Classified	8,000	8.3	8,000	8.4
Total	95,900	100.0	94,900	100.0

In June 2024, eight investments matured totalling \$12.6m. Five of the investments were held with non-fossil fuel aligned institutions (\$7.0m). Seven new investments totalling \$11.6m were placed. Based on the available returns offered on the days that the investments were taken, four of the investments were with non-fossil fuel aligned institutions with a value of \$5.0m.

Monthly Comparison of Total Funds Invested

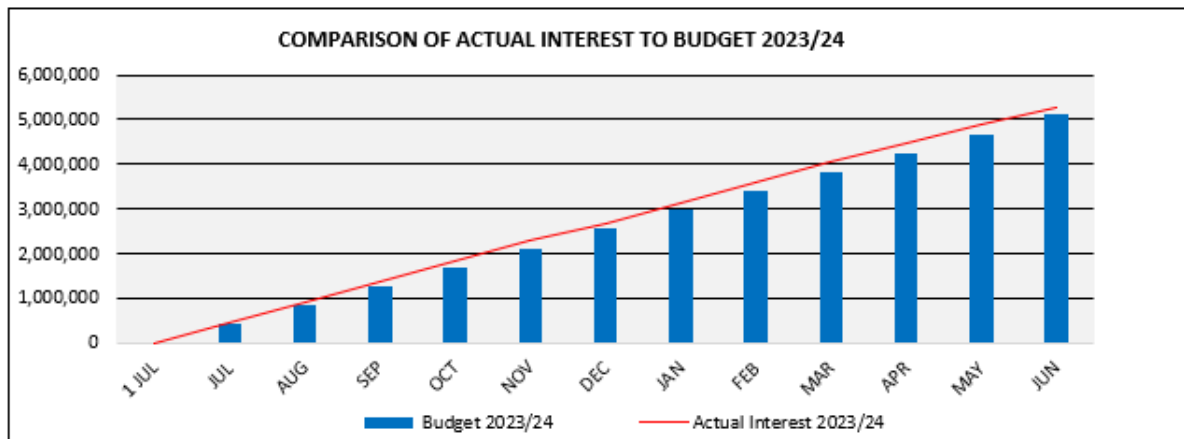


C. Comparison of Portfolio Investment Rate to 90 Day BBSW



9.2 Investment Summary - June 2024

D. Progressive Total of Interest Earned to Budget



E. Investments held as of 31 May 2024 and 30 June 2024

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	31 May \$'000	30 June \$'000
24/02/21	Suncorp-Metway Limited	FRN	4.79%	24/02/26	1,300	1,300
04/03/21	Newcastle Permanent Bld Society	FRN	4.98%	04/03/26	1,000	1,000
18/06/21	Bendigo & Adelaide Bank	FRN	5.02%	18/06/26	1,000	1,000
29/06/23	AMP Bank	FRN	6.11%	29/06/26	1,000	1,000
14/09/23	Macquarie Bank Limited	FRN	5.22%	14/09/26	1,600	1,600
20/02/24	Westpac Banking Corporation	FRN	5.21%	20/02/29	2,000	2,000
19/03/24	Suncorp-Metway Limited	FRN	5.36%	19/03/29	1,000	1,000
31/05/23	Great Southern Bank	TD	5.13%	04/06/24	2,000	-
21/06/23	Australian Unity Bank	TD	5.60%	18/06/24	2,000	-
27/06/23	Commonwealth Bank of Australia	TD	5.50%	25/06/24	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	4,000
09/01/24	BankVic	TD	5.25%	07/01/25	1,000	1,000
09/01/24	Defence Bank Ltd	TD	5.23%	07/01/25	3,000	3,000
10/01/24	ING Bank (Australia) Ltd	TD	5.22%	08/01/25	2,000	2,000
18/01/24	Auswide Bank	TD	5.25%	15/01/25	2,000	2,000
23/01/24	National Australia Bank	TD	5.15%	23/01/25	7,000	7,000
29/01/24	Suncorp-Metway Limited	TD	5.20%	27/01/25	4,000	4,000

9.2 Investment Summary - June 2024

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	31 May \$'000	30 June \$'000
13/02/24	IMB Bank	TD	5.05%	13/08/24	4,000	4,000
14/02/24	Suncorp-Metway Limited	TD	5.08%	10/07/24	7,000	7,000
23/02/24	Bank of Queensland	TD	5.05%	04/09/24	4,000	4,000
23/02/24	National Australia Bank	TD	5.10%	19/11/24	3,000	3,000
28/02/24	Australian Unity Bank	TD	5.10%	27/02/25	2,000	2,000
13/03/24	Bank of Queensland	TD	5.17%	11/09/24	2,000	2,000
28/05/24	MyState Bank Ltd	TD	5.25%	27/08/25	2,000	2,000
04/06/24	MyState Bank Ltd	TD	5.25%	03/06/25	-	2,000
27/06/24	National Australia Bank	TD	5.50%	24/06/25	-	4,000
	Total				95,900	94,900
	TD=Term Deposit; FRN=Floating Rate Note					

RECOMMENDATION

That Council notes the report of banking and investments for June 2024.

Attachment(s)

Nil

9.3 Councillor Expenses - 2023/24 Financial Year

9.3 Councillor Expenses - 2023/24 Financial Year

Delivery Program

Governance

Objective

To report on Councillor Expenses for the twelve month period to 30 June 2024.

Background

Clause 15.2 of The Office of Local Government's Model Councillor Expenses and Facilities Policy, as adopted by Council, requires a report to Council every six months outlining the provision of expenses and facilities to each Councillor; i.e.

15.2 Council will report on the provision of expenses and facilities to councillors as required in the Act and Regulations. Detailed reports on the provision of expenses and facilities to councillors will be publicly tabled at a council meeting every six months and published in full on council's website. These reports will include expenditure summarised by individual councillor and as a total for all councillors.

This information is also published on Council's website.

Key Issues

- Compliance with model policy
- Effectiveness of policy in supporting Councillors

Discussion

This report details the expenditure incurred for the period 1 July 2023 to 30 June 2024. The expenditure is based on claims submitted and paid. It excludes the annual Councillor and Mayor allowances.

Councillor Expenses and Facilities (\$ excl GST) 1 July 2023 to 30 June 2024

Councillor	General Travel Expenses	Professional Development Conferences	ICT	Incidentals Home Office	Mayor Vehicle (1)	Carer	Northern Regional Planning Panel	Super	Total
Cadwallader	4,132.47	4,949.48	599.95	1,077.34	12,000.00		1,800.00	9,950.64	34,509.88
Dicker	969.46	4,999.98		227.27		829.00		2,867.76	9,893.47
J Johnson				227.27			1,200.00	2,867.76	4,295.03
Chate	1,182.00	3,523.76	1,172.89	227.27				2,867.76	8,973.68
E Johnston	613.20	1,785.27		227.27				2,867.76	5,493.50
McCarthy		2,741.92	231.81				2,400.00	2,867.76	8,241.49
Buchanan									
Ramsey	1,891.59	4,880.57	511.86	260.91				2,867.76	10,412.69
Meehan	234.60	617.72	445.42	122.64				2,867.76	4,288.14
Bruem	140.50	4,806.35	838.78	257.27		80.00		2,867.76	8,990.66
Totals	9,163.82	28,305.05	3,800.71	2,627.24	12,000.00	909.00	5,400.00	32,892.72	95,098.54

- (1) Annual internal plant hire charge for the provision of the Mayoral vehicle, with this contribution partially offset during the year by Mayoral contributions of 25% of the standard vehicle lease fee paid by Council staff – Mayoral contributions total - \$2,422.92.

9.3 Councillor Expenses - 2023/24 Financial Year

The Council policy provides the following limits (all monetary values exclude 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 provided for all Councillors, with this training organised by Council staff.

Delivery Program Strategy / Operational Plan Activity

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

Community Engagement Strategy

The Councillor Expenses and Facilities Policy must be reviewed within 12 months of an election, which includes public exhibition. The review of this policy occurred in 2022.

Financial / Risk Considerations

Council expenditure as per this report for the past four years is as follows:

Year	2023/24	2022/23	2021/22	2020/21	2019/20
Total	95,098	90,215	25,845	23,543	42,183

Options

This report is for noting and represents the expenditure for the 2023/24 financial year.

With this policy to be reviewed following the Council election, as required by the Local Government Act, Council may also wish to provide feedback on items that might be amended or considered, as part of the next review.

RECOMMENDATION

That Council notes the contents of this update on the Councillor expenses, as per the Councillor Expenses and Facilities Policy, for the period 1 July 2023 to 30 June 2024.

Attachment(s)

Nil

9.4 Donations - Community and Sporting Groups - 2024/25

9.4 Donations - Community and Sporting Groups - 2024/25

Section Communications

Objective To allocate the community and sporting group donations for 2024/25

Background

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

The two policies are:

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

The 2024/25 Operational Plan includes the following funding allocations for these programs:

- Donations - Financial Assistance for Community Groups \$84,000
- Donations - Community Sporting Groups Capital Works Assistance \$33,000

In accordance with a resolution from the June 2024 Ordinary meeting, a working party of Councillors met on 10 July 2024 to allocate available funds based on submissions received during the preparation of the 2024/25 Operational Plan.

The purpose of this report is to consider the recommendations from that meeting and confirm the allocation of donations for 2024/25.

Key Issues

- Fair and equitable allocation of Council monies.

Discussion

The donations working party consisted of Councillors Cadwallader, Johnston, Bruem, Chate, McCarthy and Ramsey.

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

The submissions are lengthy and have not been reproduced in this agenda.

Donations Financial Assistance for Community Groups

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

9.4 Donations - Community and Sporting Groups - 2024/25

Table One: Submissions for Community Donations

Ref	Description/Project	Organisation name	Request (\$)	Approved (\$)
1	Our Kids	Event costs - Our Kids Day Out temporary fencing	1,000	1,000
2	Lennox Arts Board Inc	Part venue hire - LHCC, artists costs, sound engineer, food and beverage	1,000	500
3	Dementia Inclusive Ballina Alliance	Event costs - Symposium	4,500	2,000
4	Rotary Club of Ballina on Richmond *	Venue hire - BISC (DV Walk)	597	0
5	Ballina and District Ministers Association Incorporated	Event costs - Riverside Carols	8,000	8,000
6	Ballina Community Gardens Inc.	Minor works - undercover area	4,000	1,500
7	Ballina Breast Cancer Support Group - The Bosom Buddies	Venue hire - Kentwell Community Centre	600	600
8	Northern NSW Helicopter Rescue Service Ltd	Event costs - Ballina Show n' Shine in February 2025 (traffic management)	1,000	1,000
9	Richmond Tweed Family History Society Inc	Operating expenses - rent support	700	700
10	Lennox Head Residents' Inc Heritage Committee *	Part venue hire - LHCC (Love Lennox), and insurance	500	500
11	Community Mental Health	Event costs - Wellbeing Day Mental Health Month Event in October 2024	5,000	0
12	Northern Rivers Pickleball	Event costs - Northern Rivers Regional Doubles Pickleball Tournament in August 2024	839	839
13	Ballina Shire Concert Band Inc	Operating expenses - music charts, instruments, repairs, insurance and electricity	2,250	2,250
14	Sewing Group	Venue hire - Northlakes Hall	1,006	1,006
15	Ballina And District Historical Society	Minor works - additional kitchen storage and DA Fees for a machinery shed	2,618	2,618
16	Lions Club of Ballina Inc	Venue hire - Richmond Room	1,710	1,710
17	Rous Mill and District Memorial Hall Inc	Minor works - deck maintenance and insurance costs	12,279	2,000
18	Rotary Satellite Club Of Ballina Lifestyle *	Operating expenses - supplies, microphone & amplifier and insurance costs	2,031	0
19	Ballina Lighthouse RSL Day Club	Venue hire - Richmond Room	9,729	6,000
20	Quota Alstonville Inc.	Event costs - Quota Alstonville Craft & Garden Fair August 2024	3,967	3,000
21	Plateau Quilters Incorporated	Operating expenses - insurance, rent and Fair Trading fee	800	800
22	Lennox Head Residents' Association Inc *	Part venue hire - CWA Hall (Boomerang Bags), and insurance	1,400	0

9.4 Donations - Community and Sporting Groups - 2024/25

Ref	Description/Project	Organisation name	Request (\$)	Approved (\$)
23	Combined Sports Lennox Head Carols Committee	Event costs - Christmas Carols in the Park @ Williams Reserve Lennox Head	10,000	8,000
24	Ballina Hospital Auxiliary	Event costs - catering for the annual Motorcycle Show	800	800
25	Rotary Club of Ballina-on-Richmond *	Event costs - Rotary Duck Race in November 2024	3,500	3,500
26	Rotary Club of Ballina-on-Richmond *	Event costs - 'Ballina Shire Says NO to Domestic and Family Violence' Walk in December 2024	3,000	0
27	Ballina Hot Meal Centre	Operating expenses - food staples to produce weekly meals	1,000	1,000
28	Patches Beach Dunecare	Operating expenses - to purchase a pump to utilise the water stored in the cube provided by Council for dune regeneration work	1,000	1,000
29	North Coast Academy of Sport	Operating expenses - to support the NCAS Skate pathway program for junior athlete development	1,000	0
30	Pearces Creek Hall	Operating expenses - insurance	4,000	2,000
31	Lennox Community Gardens	Operating expenses - purchase of garden tools	313	313
32	Ballina Hockey Club	Event costs - Hockey NSW Women's Masters State Championships July 2024	4,000	2,000
33	Lennox Head Playgroup	Venue hire - LHCC	2,200	1,000
34	Wardell and District Tennis Club **	Minor works - upgrade and installation of court lighting	9,583	0
35	Lions Club of Lennox Head Inc.	Operating expenses - insurance, stationery and supplies	3,655	3,655
36	Volunteer Marine Rescue NSW Ballina Unit	Operating expenses - insurance and maintenance	9,000	1,000
37	Ballina Croquet Incorporated	Operating expenses - to cover membership fees for four disadvantaged women wanting to play Croquet	624	0
38	Wollongbar Community Action Network	Minor works - repainting the interior of the Wollongbar Hall	20,000	0
39	Lennox Lightning Toastmasters Club	Venue hire - LHCC	1,800	1,000
40	Tintenbar School of Arts	Minor works - installation of solar lighting to enhance safety	11,000	2,000
41	Ballina Region for Refugees	Event costs - 'Belonging in Ballina' events to enhance community connection	1,000	1,000
42	Alstonville Junior Water Polo	Operating expenses - purchase of two outdoor inflatable water polo fields	3,500	0
43	Ballina Branch of CWA	Minor works - installation of a second air conditioning unit at the CWA Rooms in Ballina	10,000	5,000
44	Ballina - General Cancer Support Group	Venue hire - Richmond Room	550	550

9.4 Donations - Community and Sporting Groups - 2024/25

Ref	Description/Project	Organisation name	Request (\$)	Approved (\$)
45	Rous Public School Parents and Citizens Association	Event costs - Rous Bonfire Night school fundraiser e.g. equipment hire, security/safety, food	3,000	1,500
46	Lennox Head Chess Club Inc	Part venue hire - LHCC, funding free courses and activities for primary students, insurance and website development	2,768	1,000
47	Rural Doctors Network	Operating costs - Bush Bursary Program	1,500	3,000
48	Alstonville Baptist Church	Events Costs – Christmas on the Plateau Event	-	3,000
TOTAL			\$174,318	\$76,841

Lions Club of Ballina withdraw their first application to prioritise their other application (Item 16).

The policy states that only one application per applicant will be considered:

- Multiple applications were received from the Rotary Club of Ballina (Items 4, 18, 25, 26). Item 25 is approved.
- Multiple applications were received from the Lennox Head Residents Association (Items 10 and 22). Item 10 is approved.

Items 11 and 29 from North Coast Academy of Sport and Community Mental Health are not supported, as their core funding is provided by the NSW Government.

Item 34 from Wardell Tennis Club was received under the Community Donations program for sporting capital improvements. Council's Open Spaces team will investigate this request.

Item 37 from the Ballina Croquet Club is not supported because the donation of four memberships should be provided by the club itself to demonstrate their ability to manage memberships independently from council.

Item 38 from the Wollongbar Community Action Network is not approved as the request for painting of this council-owned facility will be part of the maintenance program. The request has been lodged with Trades Section.

Item 42 from the Alstonville Junior Water Polo Club is not approved because the request, although supported in principle, is premature. The equipment requested is proposed to be used in Shaws Bay, where the Coastal Management Plan is not yet completed and will assess potential recreational uses.

Permission will also need to be granted for user groups of the bay.

Item 48 provides additional support to the Alstonville Baptist Church, in addition to the \$5,000 they received under the Festival and Events Funding for 2024/25.

The additional \$3,000 brings their total funding to \$8,000, aligning with the amounts awarded to applications (Items 5 and 23) for Christmas Carol events in Ballina and Lennox Head.

9.4 Donations - Community and Sporting Groups - 2024/25

Donations Community Sporting Groups Capital Works Assistance

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

Table Two: Submissions for Community Sporting Groups

Ref	Organisation name	Description/Project	Request (\$)	Approved (\$)
1	Alstonville Tennis Club	BBQ and additional seating as part of clubhouse extensions (DA approved)	8,000	8,000
2	Ballina Tennis Club Inc	Replacement of chain wire fencing surrounding courts 1 to 5	10,000	10,000
3	Ballina Croquet Incorporated	DA costs for croquet infrastructure including two lawns and a multi-use clubhouse at Hampton Park	10,000	0
Total			\$28,000	\$18,000

An application by the Northern Rivers Outrigger Canoe Club was withdrawn as works have been completed as requested.

Application number 3 is deemed ineligible as it does not meet the policy requirements, which cover capital works.

The request is for costs associated with Development Application (DA) fees to establish croquet facilities in Hampton Park. Additionally, the Plan of Management for Hampton Park has not yet been finalised or adopted.

Delivery Program Strategy / Operational Plan Activity

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

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

Community Engagement Strategy

The donations program was promoted in Council's Community Connect, eNews and social media throughout April and May 2024.

Community groups were also emailed inviting applications.

Financial / Risk Considerations

Council has allocated funds in the 2024/25 financial year of \$84,000 for Financial Assistance for Community Groups and \$33,000 for Community Sporting Groups Capital Works Assistance.

9.4 Donations - Community and Sporting Groups - 2024/25

Options

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

RECOMMENDATIONS

1. That Council approves the Donations – Financial Assistance for Community Groups for 2024/25, as outlined in the “Approved” column in Table One.
2. That Council approves the Donations – Community Sporting Groups Capital Works Assistance Program for 2024/25, as outlined in the “Approved” Table Two.

Attachment(s)

1. Policy (Review) - D05 Donations - Australian Representation (July meeting) [⇒](#)

9.5 Donations - Rates and Charges - 2024/25

9.5 Donations - Rates and Charges - 2024/25

Section	Financial Services
Objective	To obtain Council approval to donate the 2024/25 rates and charges in accordance with the Donations - Rates and Charges policy.

Background

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

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

This policy has undergone numerous reviews over the years to ensure that it reflects the sentiment of each Council, most recently in May 2024.

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

Key Issues

- Equity
- Benefit and cost
- Compliance with the Local Government Act

Discussion

The following table provides details of specific fixed rates and charges to be donated for the 2024/25 rating year based on the policy.

All amounts have been rounded to the nearest dollar.

Table One – Donations – 2024/25 Rates and Annual Charges

Assess No.	Organisation	Ordinary Rate	Water Access	Waste-water Access	Storm-water	On Site Septic	Waste	Total (\$)
Category A - 100% of all rates and charges donated								
415027	Ballina / Lismore SLSC	0	390	811	0	0	0	1,201
120347	Lennox / Alstonville SLSC	0	1,566	4,048	0	0	0	5,614
295613	Surf Life Saving FNC Branch Inc.	0	780	811	0	0	0	1,591
173390	CWA of NSW (Ballina)	0	250	811	0	0	437	1,498

9.5 Donations - Rates and Charges - 2024/25

Assess No.	Organisation	Ordinary Rate	Water Access	Waste-water Access	Storm-water	On Site Septic	Waste	Total (\$)
Category B - 100% of all fixed rates and charges donated (excludes measurable user pays charges)								
115643	Alstonville Agricultural Society	6,673	1,030	3,218	300	0	0	11,221
145363	Fox Street Preschool	0	250	811	0	0	0	1,061
145397	Biala School	0	250	811	0	0	0	1,061
151966	Rainbow Children's Centre	8,100	250	811	100	0	0	9,261
172661	Ballina Playgroup	0	250	811	0	0	0	1,061
172679	River Street Children's Centre	0	250	811	0	0	0	1,061
186115	Wigmore Hall	0	250	811	0	0	0	1,061
213726	Lennox Scouts	0	250	811	0	0	0	1,061
213734	Lennox Preschool	0	250	811	0	0	0	1,061
230045	Tintenbar School of Arts Trustees	2,352	0	0	0	80	0	2,432
232013	Wardell Hall	3,912	250	811	50	0	0	5,023
234170	Rous Mill Hall	2,632	0	0	0	80	0	2,712
235231	Meerschaum Vale Hall	1,622	250	0	0	80	0	1,952
239675	Pimlico Hall	1,003	0	0	0	80	0	1,082
250663	Pearces Creek Hall	2,144	0	0	0	80	0	2,224
253556	Alstonville Scouts	0	0	0	0	80	0	80
254780	McLeans Ridges Hall	3,088	0	0	0	80	0	3,168
264036	Alstonville RSL Sub Branch Hall	2,177	250	811	25	0	0	3,263
283527	Alstonville Plateau Historical Society	3,181	250	811	50	0	0	4,292
294243	Ballina Scouts	0	250	811	0	0	0	1,061
334289	Marine Rescue NSW. Prev known as Ballina Jetboat Surf Rescue (merged November 2023)	931	250	0	25	0	0	1,206
410417	Ballina Community Gardens Inc	0	250	811	0	0	0	1,061
417338	Newrybar Hall	3,258	0	0	0	80	0	3,338
417590	Alstonville Community Preschool	0	250	811	75	0	0	1,136
418960	Wollongbar Preschool	0	250	811	0	0	0	1,061
422684	Wollongbar Community Hall	0	250	811	50	0	0	1,111
423070	Marine Rescue NSW	0	390	1,204	0	0	0	1,594
437477	Lennox Head Community Gardens Inc	0	250	0	0	0	0	250
Totals (Category A, B)		41,073	9,156	23,879	675	640	437	75,860

9.5 Donations - Rates and Charges - 2024/25

The next table **provides estimates** of the water consumption-based charges that are to be donated on a quarterly basis during 2024/25, in addition to the fixed annual charges provided in the previous table. Actual amounts donated are determined by future quarterly water meter readings.

Table Two – Donations – 2024/25 Estimated Volumetric Based Charges

Assessment Number	Organisation	Estimated Water Consumption Bill (\$)	Estimated Wastewater Usage Bill (\$)	Estimated Total Bills (\$)
415027	Ballina / Lismore SLSC	564	283	847
120347	Lennox / Alstonville SLSC	2,594	1,630	4,224
295613	Surf Life Saving FNC Branch Inc.	1,537	623	2,160
173390	CWA of NSW (Ballina)	141	134	275
Totals (Estimated)		4,836	2,670	7,506

The next table provides a comparison between the estimated 2024/25 rates and charges donations and the actual 2023/24 rates and charges donations.

Table Three – Donations – Comparison between 2024/25 and 2023/24

Rate or Charge Description	Proposed 2024/25 Donations	Actual 2023/24 Donations	Difference (\$)	Difference (%)
Ordinary Rates	41,074	39,338	1,736	4.4
Water Access Charges	9,156	8,643	513	5.9
Water Consumption Charges	4,836	4,556	280	6.1
Wastewater Access Charges	23,879	23,642	237	1.0
Wastewater Usage Charges	2,670	2,659	11	0.4
Waste or Recycling Charges	437	417	20	4.8
On Site Sewage Management Fees	640	600	40	6.7
Stormwater Management Charges	675	675	0	0
Totals	83,367	80,530	2,837	3.5

The proposed 2024/25 donations are consistent with the 2023/24 financial year, allowing for the adopted rate and charge increases.

Delivery Program Strategy / Operational Plan Activity

The donations are funded in the 2024/25 Operational Plan and budget.

Community Engagement Strategy

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

Financial / Risk Considerations

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

9.5 Donations - Rates and Charges - 2024/25

Options

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

The donations listed are consistent with the Council policy.

RECOMMENDATION

That Council, in accordance with the Donations – Rates and Charges Policy, approves the donation of the 2024/25 rates and charges, as detailed within Tables One and Two of this report, which includes estimated water consumption and wastewater usage charges, pursuant to Section 356 of the Local Government Act.

Attachment(s)

Nil

9.6 Ballina Shire Australia Day Awards - Category Review

9.6 Ballina Shire Australia Day Awards - Category Review

Section	Communications
Objective	Confirm the awards categories for the Australia Day Awards

Background

As part of the Council coordinated Australia Day event each year, the Awards program plays a significant role. At the 28 March 2024 Ordinary meeting, Council resolved to investigate an additional category aimed at recognising outstanding contributions by business and professional individuals (e.g., Innovation Awards for excellence in business, education, or technology).

The current award categories include:

- Young Citizen of the Year (30 years or under)
- Senior Citizen of the Year (60 years or over)
- Volunteer Award
- Sports Award
- Community Event of the Year
- Arts and Cultural Award
- Environmental Award

Citizen of the Year is selected from all nominations across the categories.

The purpose of this report is to respond to the resolution and confirm the 2025 Award categories.

Key Issues

- Alignment with State and National Awards programs
- Potential dilution of current categories

Discussion

Aligning current award categories with community values is important to maintain relevance to ensure the awards resonate with the broader community. The number of nominations received in each category for the past three years is as follows:

Category	2022	2023	2024	Total
Young	3	4	3	10
Senior	5	4	10	19
Volunteer	3	17	8	28
Sports	3	10	9	22
Community Event	7	6	6	19
Arts and Cultural	5	4	3	12
Environmental	4	4	3	11
Total	30	49	42	121

9.6 Ballina Shire Australia Day Awards - Category Review

The Australia Day Committee selects the Citizen of the Year from the nominations received across all categories.

Business and/or Innovation Awards Category

There are several existing programs for businesses to be recognised.

Locally and regionally, several established initiatives acknowledge business achievements, such as Business NSW, Chambers of Commerce and the Rotary Ballina on Richmond Vocational Awards, and various tourism and industry-related awards.

Nationally, programs like the Australian Business Awards and Telstra Business Awards commend innovation and excellence across different industries.

The Governor General Australia Day Honours, and King's Birthday Honours, recognises nominated individuals for significant service to business.

Recognising business excellence is important as businesses contribute significantly to the Ballina Shire economy, however Council would be competing with the above programs should a further category be introduced.

The introduction of a business and innovation category could also conflict with the spirit of the awards, which primarily celebrate volunteers and non-profit community groups.

This shift could potentially prioritise commercial success over community service.

Historically, Council has tried to align award categories with the State and National Awards program.

Over the years, several new categories have been added including Sport, Community Event, Arts/Culture and Environment.

The State and National Awards do not include Sport, Community Event, Arts/Culture or Environment categories, nor do they include a business or innovation category.

The NSW Australia Day Awards categories for 2024 included, NSW Local Hero, NSW Young Australian of the Year, NSW Australian of the Year, NSW Senior Australian of the Year.

The National Australia Day Awards categories for 2024 included, Australia's Local Hero, Young Australian of the Year, Australian of the Year, Senior Australian of the Year.

The preference remains to align with State and National Awards for consistency and clarity in calling for nominations.

One option Council could consider, to help clarify the categories, is to adjust the age ranges for Volunteer, Young Citizen, and Senior Citizen of the Year to better reflect community demographics and contributions.

9.6 Ballina Shire Australia Day Awards - Category Review

In previous years, these categories have posed challenges for nominators and nominees.

Some individuals, aged closer to 60 years, believe that 'senior' does not accurately describe them.

Nominees nearing 30, often compete against much younger, teenage candidates and feel that their age conflicts with the notion of 'youth,' as they are now well into adulthood.

As one change, for example, the Young Citizen category could include individuals aged 25 years and under, while the Senior Citizen category could include those aged 70 years and over.

Nominees aged over 25 and under 70 years would be eligible for the Volunteer category.

The Volunteer category has not been constrained by age, instead, it has served as a category for nominations that did not fit other categories (e.g., youth, senior, environmental, arts/culture, community event, sporting).

However, it has not been specifically promoted as a category for nominees aged between the Youth and Senior categories.

Should Council consider an adjustment to the age categories for the above-mentioned awards, clear messaging in our communication and nomination process will explain the adjusted age ranges and provide certainty if a nominee is Young (25 years and under), Senior (70 years and over), or Volunteer (over 25 years and under 70 years).

Aligning with the expectations of nominees and nominators will help gain support for these changes.

Delivery Program Strategy / Operational Plan Activity

The event relates to the Delivery Program Strategy: CC2.1 - Create events and activities that promote interaction and education, as well as a sense of place. CC2.2 - Encourage community interaction, volunteering, and wellbeing.

Community Engagement Strategy

The award nominations are extensively promoted and include invitations to previous nominees, nominators, community and sporting groups, as well as schools, to submit nominations across the various categories.

Promotion of the awards nomination process begins in August/September through channels such as Community Connect, social media, print and radio announcements and eNews.

Financial / Risk Considerations

The Australia Day Awards program has a budget allocation, and any changes to categories would be included in the existing budget.

9.6 Ballina Shire Australia Day Awards - Category Review

Should Council wish to expand the Australia Day Award program to include business and innovation category there would be no additional risks to Council.

Options

Council has several options available in determining whether to introduce a new awards category, and they are as follows:

1. Introduce a new category for businesses and innovation
2. Maintain the current categories without any changes
3. Adjust the age categories for Young and Senior Citizen of the Year to better reflect community demographics:
 - Young Citizen of the Year: Individuals aged 25 years and under.
 - Senior Citizen of the Year: Individuals aged 70 years and over.
 - Volunteer category eligibility: Individuals aged over 25 and under 70 years.

The preference is not to add further categories and rather better define the current categories.

Council already has more categories than the NSW or Australian Government Awards, and there are concerns that continuing to expand the awards might lead to further cross-over, or uncertainty, between the nominations and the categories.

The recommendation reflects the changes in the age parameters.

Finally, Council commences calling for nominations in around August each year, therefore the categories determined at this meeting will be applied for the 2025 Award ceremony.

RECOMMENDATIONS

1. That Council continue to select a Citizen of the Year award from the total number of award nominations from across all categories.
2. That Council confirms the award and age categories for the 2025 Ballina Shire Australia Day Awards are as follows:
 - Young Citizen of the Year (25 years or under)
 - Senior Citizen of the Year (70 years or over)
 - Volunteer Award (over 25 years and under 70 years)
 - Sports Award
 - Community Event of the Year
 - Arts and Cultural Award
 - Environmental Award

Attachment(s)

Nil

9.7 Audit Risk and Improvement Committee - Annual Assessment

9.7 Audit Risk and Improvement Committee - Annual Assessment

Section Governance

Objective To assess the performance of the Audit Risk and Improvement Committee

Background

Each NSW council is required to have an Audit Risk and Improvement Committee (ARIC) that is appropriate to the council size, complexity, risk profile and available resources.

The Office of Local Government's (OLG) *Risk Management and Internal Audit Guidelines* require ARIC to provide an annual assessment to the governing body each year, endorse the annual and four-year strategic plans of the ARIC and Internal Audit program, and oversee the reappointment of independent members of ARIC.

This report responds to those requirements.

Key Issues

- Compliance with the Office of Local Government's Risk Management and Internal Audit Guidelines
- Compliance with Section 428A of the Local Government Act

Discussion

In accordance with the guidelines from the OLG, Council's ARIC is to provide a report on the operations of the ARIC for the financial year. An interim report is provided from the Chair of ARIC and is included as Attachment 1.

In summary, the report provides the Council with an overview of the 2023/24 year as well as seeking endorsement from Council on the following:

- ARIC four-year strategic work plan (Attachment 2)
- ARIC annual work plan (Attachment 3)
- Internal audit four-year strategic and annual audit plan 2024/25 (Attachment 4).

The preparation of the Internal Audit Four Year Strategic Plan has been developed by the Internal Auditors, with guidance from staff and approval of ARIC, and in response to common themes emerging from NSW regional councils, that include:

- The need to secure and maintain financial sustainability, particularly in times when revenues are threatened
- Continually monitor and keep pace with community expectations
- Consistently deliver on core Council services
- Identified and emerging high risks

9.7 Audit Risk and Improvement Committee - Annual Assessment

- Increasing considerations relating to the physical and mental wellbeing of employees at Council.

Both Internal Audit plans (annual and four year) remain rolling and agile, meaning that they can be changed should new risks emerge that need to be incorporated and addressed.

The term of the ARIC representatives will come to an end in September 2024, coinciding with the end of the Council term.

The OLG provides guidance on the appointment and reappointment of ARIC members. The maximum term a representative can serve is eight years in any ten year period.

The independent ARIC representatives, and their appointment year is as follows:

- Colin Wight (Chair) – appointed 2022
- Joanne McIntosh – appointed 2018
- Matt Licheri – appointed 2022.

Prior to approving the reappointment or extension of ARIC members, the Council must undertake an assessment of the performance of ARIC and the individual members.

Please refer to Attachment 5 that provides the results of a performance questionnaire that was sent to ARIC attendees (Grant Thornton, NSW Audit Office, Thomas Noble and Russell, General Manager, ARIC committee members).

In summary, the performance of ARIC and the individual members is considered satisfactory, therefore the recommendation to Council is to seek to reappoint all three independent members.

This will also help with having a rolling membership in that Joanne McIntosh's term will expire in 2026, allowing a new member to join during the Council term.

Delivery Program Strategy / Operational Plan Activity

The ARIC aligns with the Delivery Program Strategy EL2.3 Provide effective risk and safety practices.

Community Engagement Strategy

There is no requirement to engage with the community on audit, risk and improvement related matters.

Financial / Risk Considerations

This report and the attachments ensure Council is compliant with the *Risk Management and Internal Audit for local government in NSW* that were released in November 2023.

9.7 Audit Risk and Improvement Committee - Annual Assessment

Compliance with the guidelines strengthens Council's risk management and internal audit practices.

Options

Options available to Council are:

1. Note the report from ARIC Chair and the related attachments and to reappoint the independent ARIC members, this is the recommended option.
2. Note the report from ARIC Chair and the related attachments and seek expressions of interest for new independent ARIC members.

The recommended option will be to reappoint the existing independent members, with staggered end dates.

Joanne McIntosh to be reappointed to February 2026, and Chair Colin Wight to be reappointed to September 2028, and Matt Licheri to be reappointed to September 2028.

The September 2028 end date will coincide with the end of the term of the Council.

RECOMMENDATIONS

1. That Council notes the Audit Risk and Improvement Committee's Chair Report to 30 June 2024.
2. That Council adopts the Audit Risk and Improvement Committee's Annual Plan 2024/25 and four year Strategic Work Plan (Attachment 2 and 3).
3. That Council adopts the contents of the internal audit Annual Plan 2024/25 and four year plan (Attachment 4).
4. That Council notes the annual assessment of the performance of the Audit Risk and Improvement Committee and the individual members (Attachment 5).
5. That Council reappoint existing independent members of the Audit Risk and Improvement Committee (ARIC) that includes Joanne McIntosh to February 2026, Matt Licheri to September 2028 and Colin Wight to September 2028.

Attachment(s)

1. ARIC Chair Report for the Financial Year ending 30 June 2024 [⇒](#)
2. ARIC Four Year Strategic Plan - Financial Year 1 July 2024 - 30 June 2028 [⇒](#)
3. ARIC Annual Work Plan 2024/25 [⇒](#)
4. Internal Audit Four Year Strategic and Annual Plan 2024/25 [⇒](#)
5. ARIC Assessment Questionnaire [⇒](#)

9.8 Tender - SCADA and Telemetry Support Services

9.8 Tender - SCADA and Telemetry Support Services

Section Water and Wastewater

Objective To report the outcomes of the tender evaluation for the Tender - SCADA and Telemetry Support Services

Background

The works to be undertaken under this contract are supervisory control and data acquisition (SCADA) and telemetry support services.

Tenders were called on 30 May 2024 and at the close of tenders on 25 June 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

Sixteen companies downloaded the documentation with tenders received from:

- 360 Engineering
- SAFEgroup Automation Pty Ltd
- Metromotion Control
- Saunders Automation

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

- Insurance
- Work Health and Safety
- Demonstrated capability to respond to telemetry emergencies

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

• Pricing Structure	55%
• Tenderers demonstrated capability and previous experience (including relevant experience for similar projects)	10%
• Tenderers proposed team including organisational structure, proposed key personnel, skills and expertise including qualifications and experience of the team	10%
• Tenderers availability and depth of experience for local servicing/technical support	10%
• Social and Community	15%

9.8 Tender - SCADA and Telemetry Support Services

SAFEgroup Automation 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

SCADA and telemetry services is identified within Council's Delivery Program 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

This services contract does not impose any additional financial risk to Council as it is a continuation of existing service requirements.

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 SAFEgroup Automation 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 SAFEgroup Automation Pty Ltd for the Tender - SCADA and Telemetry Support Services per the Schedule of Rates submitted.
2. That Council authorises the General Manager to sign the contract documents.

Attachment(s)

1. Confidential Memorandum - Tender Report - SCADA and Telemetry Support Services (Under separate cover) (Confidential)

9.9 Tender - Wardell Village Streetscape Upgrade

9.9 Tender - Wardell Village Streetscape Upgrade

Section Project Management Office

Objective To report the outcomes of the tender evaluation for the Tender - Wardell Village Streetscape Upgrade

Background

The works to be undertaken under this contract are for the Wardell Village Streetscape Upgrade.

Tenders were called on 14 June 2024 and at the close of tenders on 5 July 2024, 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

Twenty-eight companies downloaded the documentation with tenders received from:

- Boyds Bay Landscaping Services Pty Ltd
- Civil Contractors (Aust) Pty Ltd t/a CCA Winslow Pty Ltd
- Kingsline Pty Ltd

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

- Public liability 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 60%
- Capability and Experience 25%
- Local and Community 15%

Civil Contractors (Aust) Pty Ltd t/a CCA Winslow 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.

9.9 Tender - Wardell Village Streetscape Upgrade

Delivery Program Strategy / Operational Plan Activity

This project is included in Council's current Delivery Program and Operational Plan PE3.g – Implement Wardell Village Centre Revitalisation Master Plan.

Community Engagement Strategy

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

Financial / Risk Considerations

This project is included in Council's current Delivery Program and Operational Plan (DPOP). The allocated budget to the project is currently \$1,108,000.

This amount is from the following funding sources:

Funding Source	Amount (\$) (Ex GST)
Local Government Recovery Program – NSW Government	900,000
Community Infrastructure Reserve	208,000
Total	1,108,000

The total cost of the preferred tender is \$1,212,523.85 (excluding GST). If Council proceeds, the budget forecast can be summarised as follows.

Description	Amount (\$) (Ex GST)
Expenditure to Date	43,563
Tendered Price (CCA Winslow)	1,212,524
Seats, bins, and vegetation - Richmond Street	20,000
Contingency and Project Management (5%)	61,626
Total	1,337,713
Budget	1,108,000
Variance	(229,713)

The works for Richmond Street are based on recent feedback from the community in respect to improvements to replace missing items from the floods, or to complement this contract. Adding these works will enhance the overall project as the work will continue the theme of the design and connect the spaces.

Also, it is efficient to deliver the works now while we are procuring the first stage of the upgrade. These works can be funded from existing operating budgets for the Open Spaces and Engineering Works Sections.

Based on the above figures the overall shortfall is \$230,000 (rounded), with \$20,000 to be sourced from existing budgets.

This leaves an overall shortfall of \$210,000.

The adopted 2024/25 Long Term Financial Plan has a forecast closing balance for the Community Infrastructure Reserve of \$3.9m, with the majority of those funds allocated in 2025/26 to help fund the Alstonville Cultural Centre and new SES building.

9.9 Tender - Wardell Village Streetscape Upgrade

Both projects are dependent on loan funds, grants or developer contributions, and with the majority of the construction planned in 2025/26, Council is in a position to source the \$210,000 shortfall from the Community Infrastructure Reserve in 2024/25. This provides time to review funding strategies for the Alstonville Cultural Centre and Ballina SES building during the next 12 to 18 months.

Alternatively, Council can reduce the scope for this tender. One option is to remove the Richmond and Sinclair intersection works, including the concrete roundabout island, pedestrian crossing and pavement works.

This change results in a revised forecast of \$1,212,222, \$48,000 over budget.

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 Civil Contractors (Aust) Pty Ltd t/a CCA Winslow Pty Ltd.

It is also recommended that Council complete the project in full. It is always preferable to complete projects, as piece meal approaches, often result in cost escalations, or projects being delayed for lengthy periods of time.

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 Civil Contractors (Aust) Pty Ltd t/a CCA Winslow Pty Ltd for the Tender - Wardell Village Streetscape Upgrade for the total amount of \$1,212,523.85 (excluding GST).
2. That Council authorises the General Manager to sign the contract documents.
3. That Council approves a budget variation of \$230,000 funded as follows:

Open Spaces and Engineering Works Operating Budgets - \$20,000
Transfer from the Community Infrastructure Reserve - \$210,000

Attachment(s)

1. Confidential Memorandum - Tender Report - Wardell Village Streetscape Upgrade (Under separate cover) (Confidential)

9.10 Policy (Review) - Donations - Australian Representation

9.10 Policy (Review) - Donations - Australian Representation

Section	Communications
Objective	To review the Donations - Australian Representation 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 Donations – Australian Representation policy.

Council first adopted this policy in February 2005, with the last review adopted in August 2022.

The purpose of this policy is to provide a process for residents within Ballina Shire to apply for a donation to assist with travel and accommodation expenses when they are selected to represent Australia as an individual or as a member of a national team.

Council resolved at the May 2024 Ordinary meeting to hold a councillor briefing to review the Donations – Australian Representation Policy, to ensure it aligns with the Community Strategic Plan.

The purpose of this report is to consider the recommendations from that meeting.

Key Issues

- Strengthen criteria of the policy
- Equity in donations
- Increase the value of support provided to community representatives

Discussion

A briefing was attended by Councillors Cadwallader, Johnston, Bruem, Chate, McCarthy, and Ramsey that identified several issues with the current policy.

The objective of the review was to strengthen the selection process, improve clarity and recognition of sporting bodies and increase the level of support provided by Council.

Strengthen Selection Process

Councillors discussed some recent approvals that did not fully meet the policy criteria, including qualifying events (e.g., dancing and holiday sports camps sometimes branded as 'international'), and the lack of formal qualifying rounds.

9.10 Policy (Review) - Donations - Australian Representation

The proposed changes include strengthening the selection criteria to ensure that there is a formal qualifying event for Australian representation by a nationally recognised and accredited sporting body, namely the Australian Sports Commission (ASC).

Recognised Sporting Bodies

There was a desire from Councillors for more clarity on what constitutes a recognised and accredited national sporting body.

A recognised and accredited national sporting body is defined as an organisation that is officially acknowledged by the ASC.

This ensures that the events and teams are of a legitimate and competitive standard.

The ASC identifies National Sporting Organisations (NSO) and National Sporting Organisations for people with a Disability (NSOD) that have met its recognition criteria.

These criteria help the ASC determine if an organisation is the leading body for the sport it represents in Australia, has sufficient standing within its sport, and maintains adequate governance.

NSOs and NSODs are recognised for a defined recognition period.

The amended policy includes this definition.

Level of Support

Councillors discussed the notion that if the selection assessment were more rigorous, the number of donations would decline, ensuring that support is warranted only for valid requests.

As fewer applicants would meet the criteria, it is recommended to increase the value of support to \$800 for overseas representation (currently \$535, CPI adjusted) and \$400 for national representation (currently \$267, CPI adjusted).

The recommended changes are highlighted in yellow in Attachment 1.

Delivery Program Strategy / Operational Plan Activity

CC2.2 - Encourage community interaction, volunteering and wellbeing.

Community Engagement Strategy

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.

9.10 Policy (Review) - Donations - Australian Representation

Financial / Risk Considerations

This policy does not have an accompanying budget, as the amounts sought are typically minor and infrequent. There are no further risk considerations in reviewing this policy.

Options

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

RECOMMENDATIONS

1. That Council adopts the amended Donations – Australian Representation Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.

Attachment(s)

1. Policy (Review) - Donations - Australian Representation [⇒](#)

9.11 General Manager - Performance Review

9.11 General Manager - Performance Review

Section Governance

Objective To provide an overview of the process followed for the General Manager's annual performance review

Background

The General Manager's Performance Review Committee (PRC) currently comprises the Mayor, Deputy Mayor, Cr Bruem and Cr Ramsey, as resolved by Council. The PRC met with the General Manager on 15 July 2024 to perform the twelve-monthly performance review for the 2023/24 financial year.

This report confirms that a confidential report has been included later in this agenda in respect to this review.

Key Issues

- Compliance with the General Manager's contract conditions

Discussion

Council is legally obliged to fulfil its contractual obligations with the General Manager. This includes a 12 monthly appraisal.

The Council and / or General Manager have the option of using an external consultant to assist. A consultant from Local Government NSW assisted with this review, which is consistent with previous reviews for this term of Council.

The current process involves a recommendation from the PRC to the Council meeting, with all Councillors then having an opportunity to provide feedback, or amend the review, as presented to Council as part of the confidential report.

The actual performance review is listed as confidential as it involves personnel matters.

Options

This report is for noting with the confidential report providing the review.

RECOMMENDATION

That Council notes the contents of this summary report for the General Manager – Performance Review for 2023/24.

Attachment(s)

Nil

9.12 Delivery Program and Operational Plan - 30 June 2024 Review

9.12 Delivery Program and Operational Plan - 30 June 2024 Review

Section Governance

Objective To complete the final review of the implementation of the 2023/24 to 2026/27 Delivery Program and 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 final review of the 2023/24 to 2026/27 Delivery Program and 2023/24 Operational Plan, with the information based on the entire 2023/24 financial year. 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.

9.12 Delivery Program and Operational Plan - 30 June 2024 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	21	23	45	89
Amber	2	2	4	8
Red	0	0	2	2
Total	23	25	51	99

Program Actions Summary - By Division and Percentage

Division / Status	C&C	Civil	PEH	Total
Green	91	92	88	90
Amber	9	8	8	8
Red	0	0	4	2
Total	100	100	100	100

Items of note in the attachment include:

- Progress availability of land at the Russellton Industrial Estate and Southern Cross Industrial Estate (page 2) – Works well advanced at the Russellton Estate and largely complete at Boeing Avenue.
- Progress development of Wollongbar Residential Land Holding (page 2) – Comprehensive community consultation process underway based on the concept plans, with a report scheduled to the August 2024 Commercial Services Committee meeting.
- Participate in and leverage opportunities to market the Ballina Coast and Hinterland and Implement Destination Management Plan (pages 3 and 4) – The Tourism Team have had an exceptional year, including a Silver medal for Ballina in the NSW Top Tourism Towns, along with finalists in the North Coast Tourism Awards for Tourism Services, Innovation and Young Business Leader.

There were four other Ballina Shire finalists in the Awards, all of which received support from the Tourism Team in applying.

- 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 (DCCEEW) and the information sought by DCCEEW has been extensive. The information has now been submitted by Council and we are currently waiting for a decision on Council's application.

9.12 Delivery Program and Operational Plan - 30 June 2024 Review

- Maintain Water and Wastewater Developer Contribution Plans (page 10) – Plans adopted at the June 2024 Ordinary meeting.
- Deliver Lennox Head Town Centre Village Renewal (page 11) – Lennox Village Vision project complete with the Rural Fire Shed in the process of being removed to provide additional car parking spaces.
- Prepare Management Plans for Spoonbill Reserve and Lumley Park (pages 15 and 21) – There have been delays in these two projects, albeit pickleball courts were opened at Lumley Park during the year.
- 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 17-18) – It is pleasing to see the Teven Site now having works underway and once completed this will provide a substantial contrast to what was previously more of a dumping site for old vehicles, rubbish etc.
- Prepare and implement Emissions Reduction Plan (page 20) – Plan adopted at the May 2024 Ordinary meeting.
- Prepare Management Plan for Hampton Park (page 20) – The public consultation phase for this management plan has now been completed with a large number of submissions received. The draft plan will now be presented to Council for finalisation.
- Review Environmental Protection Zone Framework (page 21) – This planning proposal has now been finalised by the State Government.
- Prepare Housing Strategy including local affordable housing framework (page 22) – Housing Strategy adopted at the May 2024 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	31	15	17	63
Amber	8	5	7	20
Red	3	2	2	7
Total	42	22	26	90

Service Delivery Indicators Summary - By Percentage

Division / Status	C&C	Civil	PEH	Total
Green	74	68	65	70
Amber	19	23	27	22
Red	7	9	8	8
Total	100	100	100	100

9.12 Delivery Program and Operational Plan - 30 June 2024 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:

- Airport (page 24) – Operating revenue figures are good although passenger numbers are steady and there has been a significant increase in operating expenses during the year, with staff resources expanded to help manage what is a major business activity for Council.
- Community Facilities (pages 25-26) – There has been mixed results for Council's community facilities with increases in usage in some areas and decreases in others. Ongoing marketing is being implemented to assist in building usage levels in 2024/25.

Some targets may have been too ambitious for 2023/24 as the 2022/23 results were distorted due to excess hire following the 2022 floods.

- Development Services (pages 38-39) – 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 for the development assessment program is included earlier in this agenda.
- Number of Events Approved by Council and Filming Approvals (page 40) - There has been a substantial increase in these activities during 2023/24, which is pleasing to see following an almost complete shut down because of the COVID pandemic.

Delivery Program Strategy / Operational Plan Activity

This report provides a status report on all the adopted activities in the 2023/24 Operational Plan and 2023/24 to 2026/27 Delivery Program.

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.

Once the capital works program is included, as per the following report in this agenda, 2023/24 has been another year of significant achievement for Council.

RECOMMENDATION

That Council notes the contents of this final review on the implementation of the 2023/24 to 2026/27 Delivery Program and 2023/24 Operational Plan.

Attachment(s)

1. Delivery Program and Operational Plan - 30 June 2024 Review [↔](#)

9.13 Capital Expenditure - 30 June 2024 Review

9.13 Capital Expenditure - 30 June 2024 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 final report for 2023/24 and outlines work undertaken for the 2023/24 financial year.

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 30 June 2024 on a cash basis. This figure excludes commitments and accruals.
- % Expended - Percentage of budget expended to 30 June 2024 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)

Significant number of projects completed during the year including Fitzroy Park, Pop Denison – Senior Playground, Lennox Park, Tanamera Reserve, Elizabeth Ann Brown Park, Swift Street and Kingsford Smith Reserve.

Commercial Services (attachment two)

Airport – Runway works largely complete.

Property – Southern Cross and Russellton Industrial land works largely complete.

Facilities Management (attachment two)

Large number of minor projects completed, with the plant purchases ahead of schedule.

The plant over expenditure will be funded from the plant reserve.

Asset Management, Emergency Services and Resource Recovery (attachment three)

Construction of the Lennox Head Rural Fire Service shed is complete, and the Rural Fire Service is in the processing of moving into the premises.

Water and Wastewater Operations (attachments four and five)

Water and Wastewater Operations – Water is 92% expended and Wastewater 73%.

The Ballina Wastewater Treatment Plant rectification works are well underway, which is pleasing to see after many years of contract disputes.

Engineering Works (attachment six)

More than \$24m expended out of a large program of \$29m.

Major projects completed include the Lennox Village Vision (LVV), 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.

Ross Lane Safer Road improvements are also well advanced.

The completion of Pearces Creek Bridge, works totalling over \$1.4m for footpaths and shared paths, as well as the re-opening of the Wardell Wharf, are all significant achievements for 2023/24.

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.

Options

This report provides an overview of the implementation of the 2023/24 capital expenditure program.

Cash expenditure to 30 June 2024 is \$65m on a cash basis, out of a total budget of \$77m, as per the following summary.

**Table 2 - Capital Works Summary by Section and Division
30 June 2024 (\$'000)**

Section Results	Budget (\$)	Expended (\$)	% Expended
Open Spaces	8,422,200	6,179,000	73%
Public and Env Heath	1,311,000	572,900	44%
Strategic Planning	66,000	66,400	101%
Commercial Services	18,752,000	17,356,700	93%
Facilities Management	4,861,000	5,171,400	106%
Tourism	108,000	28,700	27%
Asset Mgmt and Emergency Services	2,258,000	1,871,100	83%
Resource Recovery	924,000	557,300	60%
Water Operations	4,057,000	3,746,000	92%
Wastewater Operations	6,987,000	5,116,200	73%
Engineering Works	29,433,100	24,329,100	83%
Total	77,179,300	64,994,800	84%
Division Results			
Planning and Environmental Health	9,799,200	6,818,300	70%
Civil Services	43,659,100	35,619,700	82%
Corporate and Community	23,721,000	22,556,800	95%
Total	77,179,300	64,994,800	84%

Overall, the delivery of the entire program has proceeded reasonably well considering the ongoing difficulties faced by the construction industry during the past three years (shortage of labour, huge increases in costs, delays in the approval process).

The cash figures applied in this report do not reflect the contracts underway, where there is accrued expenditure incurred by the contractor, with the invoices for payment submitted to Council during 2024/25.

9.13 Capital Expenditure - 30 June 2024 Review

The capital works program for 2024/25, as adopted by Council, remains large, at \$78m, with any incomplete projects from 2023/24 still to be carried forward.

The carry forward recommendations will be reported to the August 2024 Ordinary meeting once the results for 2023/24 are finalised.

RECOMMENDATION

That Council notes the contents of this report on the delivery of the 2023/24 capital expenditure program.

Attachment(s)

1. Capital Expenditure - Planning and Environmental Health Division [⇒](#)
2. Capital Expenditure - Corporate and Community Division [⇒](#)
3. Capital Expenditure - Civil Services Division - Asset Management, Emergency Services and Resource Recovery [⇒](#)
4. Capital Expenditure - Civil Services Division - Water Operations [⇒](#)
5. Capital Expenditure - Civil Services Division - Wastewater Operations [⇒](#)
6. Capital Expenditure - Civil Services Division - Engineering Works [⇒](#)

10.1 Marom Creek Water Treatment Assets - Transfer

10. Civil Services Division Reports

10.1 Marom Creek Water Treatment Assets - Transfer

Section Water and Wastewater

Objective To authorise the General Manager to complete the proposed transfer of assets

Background

At the 15 December 2022 Ordinary meeting Council resolved as follows:

1. That Council authorises the General Manager to negotiate an agreement for the transfer to Rous County Council of the Marom Creek water supply infrastructure assets, with those assets described as the centrepiece and associated assets in Attachment 1 to the report submitted to the 23 September 2021 Ordinary meeting.
2. That the price for the asset transfer is to be determined as Council's assessed written down value for these assets, updated to current values.
3. That the final terms and conditions of this agreement are to be reported back to Council to seek approval for the attaching of the Council Seal.
4. That Council defer further action on the determination of the tender until the asset transfer matter is reported back to Council.

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

The report refers to an earlier report to the September 2021 Ordinary meeting, which is included as Attachment 2 and includes a summary of the assets included in the transfer proposal.

Rous County Council (RCC) is now in a position to move forward on this proposal.

During 2024 work has been undertaken by staff from RCC and Council to confirm the assets to be transferred, the terms and conditions of the sale, and the arrangements for the ongoing supply of water to customers currently served by these assets.

RCC has arranged for an Extraordinary meeting to be held on 17 July 2024 to consider recommendations that provide endorsement for their General Manager to undertake the final steps to execute the asset transfer.

The objective of this report is to provide Council's General Manager the same authority.

10.1 Marom Creek Water Treatment Assets - Transfer

Key Issues

- Long Term Water Security
- Asset Transfer Terms and Conditions

Discussion

Council authorised the General Manager to negotiate the transfer of the Marom Creek Water Supply Infrastructure Assets ('the Assets') at the Council meeting held 15 December 2022.

A summary of the assets involved are included the report as per Attachment 2. There are also parcels of land and easements that are included in the transfer.

These can be summarised as follows.

Land Details

Postal Name	Property Name	Property Street Address	Lot number	Plan label
Ballina Shire Council	Marom Creek Dam	65 Weis Lane ROUS NSW 2477	1	DP394036
Ballina Shire Council		Weis Lane ROUS NSW 2477	1	DP618554
Ballina Shire Council	Marom Creek Dam	65 Weis Lane ROUS NSW 2477	1	DP394035
Ballina Shire Council		72A Boundary Road	1	DP392073
Ballina Shire Council		42A Boundary Road	1	DP395022
Ballina Shire Council	Marom Creek Dam	65 Weis Lane ROUS NSW 2477	1	DP391755
Ballina Shire Council	Marom Creek Dam	65 Chesworth Lane WOLLONGBAR NSW 2477	1	DP390972

From the RCC perspective, the benefits of the transfer of the Assets can be summarised by the following from their letter reported to Council which said, in part;

Integrating the Marom Creek water supply and bore assets provides the community with the most efficient and cost effective solution to boost our regional supply to meet short-to-medium-term demand and increase our capacity to withstand future droughts.

From Council's perspective, there are a number of benefits including;

1. Avoiding the need to invest significant funds in capital works to upgrade the Assets to contemporary standards; and
2. The transfer will realise significant funds for the Water Fund; and
3. Generating operational efficiencies, as our existing staff and plant resources will be focused on operating our four wastewater treatment plants, avoiding

10.1 Marom Creek Water Treatment Assets - Transfer

the inefficiencies of attending to the relatively remote location of the Assets;
and

4. Supporting the regional approach to water security is beneficial as Council is the most significant customer (by amount of water purchased) of the RCC constituent councils and
5. Reduce risk because the water supply will be delivered by the specific purpose council.

The level of service will not change for any of our urban reticulation customers who receive water through these Assets.

Council will continue to be the water authority responsible for the reticulation of the water supply and will still be responsible for the level of service to our customers.

As is the case for the existing majority of Council's water customers, after the transfer, Council will purchase bulk water from RCC for distribution to our customers.

There are 57 rural customers who receive their water through a direct connection to the Assets. These customers will be transferred to RCC.

Asset Transfer Price

Council's resolution determined the mechanism for pricing the Assets as the assessed written down value. Table 1 sets out the current estimate of the values.

Table 1 - Asset Values as at 30 June 2023

Asset	Value (\$)
Marom Creek Land	72,398
Pipelines	1,128,931
Bores	24,337
Russellton Reservoir	1,014,617
Meters	11,285
Marom Creek Water Treatment Plant	3,911,811
Total	6,163,379

For the transfer, these values will be adjusted to be current as at 30 June 2024. This will require an indexation for inflation and adding in depreciation.

RCC and Council's technical officers continue to check the details of the list of Assets to be transferred to ensure the best operational outcome is achieved and the respective asset registers and final transfer price are precise.

Table 1 refers to Marom Creek land and the Russellton Reservoir.

The reference to land excludes the land for the Russellton Reservoir site.

This land will be included in the transfer process; however a subdivision is necessary as the lot is too large for RCC purposes.

10.1 Marom Creek Water Treatment Assets - Transfer

The residue is however of interest to Council as part of its management and development of the Russellton Industrial Estate.

Council's Commercial Services Section has provided RCC with a price for the sale of the Russellton Site to be transferred.

This process will be reported separately to Council, albeit it is noted that the execution of the contracts for the Asset Transfer and the Reservoir Site need to be managed concurrently to ensure the ownership of the land and the infrastructure remain connected.

This means the actual date for the transfer of the Assets will be determined once the reporting for the Reservoir Site is complete.

The licenses attached to the Bores will be reassigned to RCC.

There is also an active licence for the Marom Creek Weir, which will be reassigned to RCC.

It is arguable that a bore with a licence has a commercial value in excess of the current value for the infrastructure.

However, the market for this type of licence, being bores located in public road reserves, is difficult to assess, albeit the likelihood that there is commercial value is extremely unlikely.

The reason for this is the licences are for town water purposes and this usage cannot be changed.

Also, reassigning the water allocation requires NSW Government approval and based on RCC recent experience there is no real local market for allocation assignments.

Council has not had any need to use the bores for many years and accordingly the licences have not had an operational value to Council.

The licenses will assist RCC in the development of their Alstonville Plateau Water Supply Scheme.

Therefore, in the unlikely event a commercial value is ever realised for the licence, and noting RCC will achieve a better operational or strategic outcome by holding the licenses than Council, transfer at current value of the infrastructure only is considered a reasonable outcome in the circumstances because RCC is a public authority serving Ballina Shire.

Delayed Payment Schedule

Since the last decision of Council, RCC has requested that the purchase price be paid in instalments.

This is necessary to support RCC's Long Term Financial Plan, which has a significant capital works program planned for the near future.

RCC propose to pay \$100,000 now and \$100,000 for the following two years and the balance on 30 June 2027.

10.1 Marom Creek Water Treatment Assets - Transfer

RCC has not proposed to pay interest on their offer.

With delayed purchase terms, it is reasonable to consider whether interest should be paid.

The applicable interest rate for this transaction could be the Tcorp rate, which is currently 4.789% for a three-year term.

For an amount of \$6m, the interest revenue to Council is \$290,000 per annum.

Council could accept the payment terms, without charging interest on the basis that once the Assets are transferred the plant will not be operated by either Council.

RCC will incur the costs of supplying water to Wardell from the regional water supply and this Council will avoid the operational costs of running the plant.

RCC will receive revenue from the sale of water.

Council has budgeted around \$220,000 per annum over the last few years to operate the plant.

Transfer of the Assets also means Council avoids the need to spend many millions of dollars on upgrading the plant to contemporary standards.

Council also avoids the cost of renewing and maintaining the other infrastructure in the list of Assets.

The recommendation to this report proposes to advise RCC that Council requires interest to be paid at the Tcorp rate.

This decision will require negotiation, as it is not part of the current proposal.

Alternatively, Council may prefer to accept the current proposal based on the overall positive financial and community outcomes achieved.

Operating the Plant in the Future

RCC is seeking to own the Assets because they have assessed this is critical in the short term to ensure water security for the region.

Due to the age and condition of the treatment plant, RCC is planning to eventually decommission the plant and replace it with a plant located at Russellton to serve the Alstonville Plateau.

In the interim period for the construction of the new plant, RCC is able to provide water services to the areas serviced by Council from the Marom Creek Supply through the regional water supply, with the exception of drought periods.

This means the plant won't be operational on a day-to-day basis.

RCC propose for Council to manage the operations, when needed, because of the corporate knowledge and system understanding of Council staff.

This is a reasonable request that can be supported.

10.1 Marom Creek Water Treatment Assets - Transfer

A Deed of Agreement to manage this and other operational matters is proposed to support the contract of sale.

RCC Proclamation Area

The Marom Creek Water Supply is located outside of the RCC proclaimed area of operation.

This means, RCC can acquire the Assets, however they are not authorised to operate them.

It is likely that amending the proclaimed area will take many years to finalise because of the statutory processes involved.

An interim solution is for Council to provide a formal delegation to RCC authority in accordance with section 377 of the *Local Government Act 1993* to provide bulk water services from Marom Creek Water Supply, including the Russellton Reservoir.

Delivery Program Strategy / Operational Plan Activity

Water supply is an essential service provided by Council and accordingly the Delivery Program has a number of reference points to water activities including HE2.1 Implement total water cycle management practice.

Community Engagement Strategy

No community consultation has been undertaken for this matter.

Financial / Risk Considerations

From a financial perspective, the transfer of the Assets realises a significant sum for the Water Fund.

Importantly, it also avoids the operational costs, depreciation and renewal costs and the capital upgrade costs, which are estimated to be many millions of dollars.

The proposal also provides advantages in terms of risk mitigation.

Council operates four wastewater treatment plants that service all of the urban areas of the Shire.

The Marom Creek Water Supply is a small operation, and it is difficult to resource the management and operation of the plant at an optimal level.

Incorporating this supply into the RCC system means the supply is being managed by the authority who specialises in this service and infrastructure, and who is able to bring economies of scale and other advantages that reduce the risks associated with the water supply service.

Council's legal advisors have provided advice on this process and have drafted the contract of sale and deed of agreement documents.

Options

The following options are available.

Option One Proceed with the Asset Transfer

For the reasons outlined in this report, this remains the recommended option. The proposed arrangements are consistent with Council's previous resolution. The transfer is considered beneficial to the regional water supply and Council. Within this option there is also the consideration of interest paid on the deferred payment. Council either include or exclude this condition.

Option Two Terminate the Process

This is not recommended due to the strategic planning and other commitments made by RCC to advance the regional water supply security.

RECOMMENDATIONS

1. That Council authorises the General Manager to execute the contract for the sale to Rous County Council of the water supply assets, including land and easements, that are the subject of this report.
2. That Council advise Rous County Council that it accepts the proposed deferred payment terms, subject to an agreement that Rous County Council pay interest at the TCorp 3 year fixed rate amortising loans with quarterly repayments at 4.89%.
3. That the price for the sale of the assets in point one be confirmed as per the process outlined within this report.
4. That Council agree to the schedule of payment terms for the sale in point one above as outlined within this report.
5. That Council authorises the General Manager to execute a Deed of Agreement with Rous County Council for the purposes addressing operational and other matters associated with the transfer that are not terms in the contract for sale.
6. That Council delegates to Rous County Council, pursuant to Section 377 of the *Local Government Act 1993*, authority to operate the Marom Creek Water Treatment Plant and any of the other assets subject of this report including the Russellton Reservoir.
7. That Council notes the effective date of transfer of the water supply assets, as per point one, will be determined once the process is confirmed that manages to the satisfaction of Council and Rous County the risk in the contract for sale of the Russellton reservoir land process in respect of the possible disconnection between the land and the infrastructure.

Attachment(s)

1. Council Report - December 2022 [⇒](#)
2. Council Report - September 2021 [⇒](#)

11.1 Questions With Notice - Solar Panel Installation Contract

11. Notices of Motion

11.1 Questions With Notice - Solar Panel Installation Contract

Councillor

Cr Bruem

Councillor Questions

In reference to the email from the Council Director Corporate and Community Caroline Klose of July 11 (ref 'the email') provided to Councillors advising that a contract worth \$70,812 was awarded to Premium Solar Ballina for the supply and installation of solar panels on the Ballina Memorial Swimming Pool.

Further, the email advises contracts were signed with Premium Solar Ballina for installations on two other council buildings, namely the Wigmore Arcade and CWA Hall.

The email states the contract for the Ballina Swimming Pool was let because "the works were the awarded to the lowest quotation, which was Premium Solar and Electrical with a value of \$70,812 (inc GST)."

1. Is the General Manager (GM) aware of NSW Guidelines for Tendering for Local Government (<https://www.olg.nsw.gov.au/wp-content/uploads/Tendering-Guidelines-for-NSW-Local-Government.pdf>) and have they been implemented as part of the Ballina Shire Council procurement procedures to ensure adherence to best practice. If not, why not?
2. Is the GM satisfied the guidelines were adhered to with respect to all three contracts awarded to Premium Solar Ballina?
3. The email states the contract was let due to it "being the lowest price", however the NSW Government tendering guidelines (section 3.4 page 30) prescribes the development of evaluation criteria, which include:
 - a) Whole-of-life costs, including capital, operational and disposal costs,
 - b) Previous performance of tenderer and,
 - c) Tenderer's community relations practices and performance.

Did the GM oversee the development of evaluation criteria with respect to all three contracts awarded to Premium Solar Ballina?

4. Specifically, with respect to point a) whole of life costs, did the evaluation criteria take into account the relatively short (20-year) expected optimum lifespan of solar panels and the need for the safe recycling and disposal of decommissioned solar panels?
5. With respect to c) the tenderers community relations, Councillors are aware that Premium Solar Ballina has been reported on multiple occasions for breach of by-laws relating to illegal advertising, specifically the repeated placement of an advertising trailer on Ballina roads and adjacent areas.

11.1 Questions With Notice - Solar Panel Installation Contract

What action was taken on these complaints, including fines and penalties?

Was this history of infringements of council bylaws considered when evaluating the suitability and community practices of the vendor?

6. Can all evaluation criteria notes and records with respect to all three contracts be provided for independent evaluation?
7. Referencing the NSW Tendering Guidelines recommendation for a checklist to be followed (page 60) Is the General Manager able to confirm, a checklist was followed and can it be made public and/or referred to council's Audit Risk and Improvement Committee with respect to the three contracts awarded for solar panels to Premium Solar Ballina?
8. As part of council's ambitious goal to get to net zero carbon emissions by 2030, can the GM provide details on:
 - a) the likely number of council buildings that will require solar panel installation,
 - b) an estimate of how much these works will cost
 - c) will such contracts be allotted on an individual basis, thereby allowing expenditures to be committed to by the GM without reference to the elected council?

Staff Response

The email referenced in the questions stated as follows:

Dear Councillors (excluding Cr Johnson) (cc Paul, Matt, John and Craig)

We have received some negative feedback through social media and in person relating to the installation of solar panels on the Ballina Swimming Pool during June 2024.

Whilst this matter is operational, I thought it would be helpful if Councillors were able to have the information at hand to respond to these types of comments as they do not reflect Council's values.

Council's procurement procedure requires staff to have three written quotes for works over an estimated value of \$40,000.

Quotes were sourced by staff from three solar panel providers in the Ballina Shire, with the prices ranging from approximately \$70,000 to \$111,000.

I've attached these quotes for your information.

In the end, the works were awarded to the lowest quotation, which was Premium Solar and Electrical with a value of \$70,812 (inc GST).

We understand Cr Johnson has an interest in this company.

This does not preclude Premium Solar and Electrical doing work for Council, with the organisation having previously installed solar panels for a tenant in the Wigmores Arcade and for the Ballina CWA on their building at Captain Cook Park.

11.1 Questions With Notice - Solar Panel Installation Contract

Craig Brown managed this procurement process for Council and if you have any questions, please let Craig or I know.

Responses to the questions are as follows.

1. *Is the General Manager aware of the NSW Guidelines for Tendering for Local Government and have they been implemented as part of Council's procurement procedures to ensure adherence to best practice. If not, why not?*

The General Manager is aware of these guidelines. The tendering guidelines apply for tenders as required by Section 55 of the Local Government Act. The guidelines have been used, to varying degrees, in respect to Council's tendering procedures.

One of the exemptions for tendering is a contract under \$250,000 as per Section 55 (n) (1) of the Local Government Act.

This contract was well under \$250,000. This means the tendering guidelines do not apply, as it was not a tender. Three quotations were sourced based on a set specification.

2. *Is the GM satisfied the guidelines were adhered to with respect to all three contracts awarded to Premium Solar Ballina?*

As per point 1, the guidelines do not apply to the current contract.

The other two instances of Premium Solar and Electrical doing work on Council buildings related to tenants purchasing the solar panels.

The contracts were not with Council.

Approval from Council was needed to place solar panels on Council's buildings (Ballina CWA Hall and a retail shop in the Wigmore Arcade).

3. *The email states the contract was let due to it 'being the lowest price' however NSW tendering guidelines (section 3.4 page 30) prescribes the development of evaluation criteria that include whole of life costs, previous performance, tenderer's community relations and performance?*

Did the GM oversee the development of evaluation criteria with respect to all three contracts awarded to Premium Solar Ballina?

As per points 1, and 2, the tendering guidelines do not apply and there has only been one contract with Council.

The key part of the current contact was the specification detailing the works, which focused on replacing existing panels.

The background to this is that the old 67 kW solar PV system, at the Ballina War Memorial Pool, used solar panels that, at the time of the pool upgrade, six years ago, were modern technology.

The panels, over time, have proven to be unreliable, causing system failures.

11.1 Questions With Notice - Solar Panel Installation Contract

The new solar panel design is much smaller and more efficient.

The new panels allowed Council to upgrade the system to 99.88 kW, with 99.9 kW being the maximum size allowed before becoming a power station and losing the Government Solar rebate discount (small scale technology certificate or STC) of \$36,708 that Council has received.

The contract also specified solar panels that capture roof reflection, which increases the collection ability of the system by up to 17 percent, taking production up to 117 kW, in a perfect scenario.

The General Manager was not involved in this specification, or the assessment of the three quotations sourced for the contract. Council's electrical team assessed the quotes, as the subject matter experts.

4. *Did the GM oversee the development of evaluation criteria with respect to all three contracts awarded to Premium Solar Ballina?*

The General Manager was not involved in any evaluation criteria with the other two contracts not being Council contracts.

As per point three, the key part of the current contract was the specification. Safety systems were also checked.

5. *Specifically, with respect to whole of life costs, did the evaluation criteria take into account the relatively short expected optimum lifespan of solar panels and the need for the safe recycling and disposal of decommissioned solar panels?*

The specifications detailing the works were the most important aspect of the evaluation criteria, along with price.

6. *With respect to the tenderers community relations, Councillors are aware that Premium Solar Ballina has been reported on multiple occasions for breach of by-laws relating to illegal advertising, specifically the repeated placement of an advertising trailer on Ballina roads and adjacent areas.*

What action was taken on these complaints, including fines and penalties? Was this history of infringements of council bylaws considered when evaluation the suitability of community practices of the vendor?

Reports of non-compliance with respect to signage are not procurement related and are dealt with by Council's Public and Environmental Health Section.

Complaints received by Council's rangers are dealt with across the entire shire, based on priorities, assessed risk, and available resources.

7. *Can all evaluation criteria and notes and records with respect to all three contracts be provided for independent evaluation?*

The other two contracts were not with Council.

The current contract was based on the specification and price.

11.1 Questions With Notice - Solar Panel Installation Contract

The documents for the current contract, which are limited, are available for review at any time.

The documents are effectively the specification and the quotations.

8. *Referencing the NSW Tendering Guidelines recommendation for a checklist to be followed. Is the General Manager able to confirm a checklist was followed and can it be made public and/or referred to Council's Audit Risk and Improvement Committee with respect to the three contracts awarded for solar panels to Premium Solar Ballina?*

As per the earlier items, the tendering guidelines are not applicable.

As per item 2, the other two contracts were not with Council.

9. *As part of council's ambitious goal to get to net zero carbon emissions by 2030, can the GM provide details on:*

- a) *the likely number of council buildings that will require solar panel installation,*
- b) *an estimate of how much these works will cost*
- c) *will such contracts be allotted on an individual basis, thereby allowing expenditures to be committed to by the GM without reference to the elected council?*

Councils recently adopted Corporate Emissions Reduction Plan includes a list of Onsite Solar PV and Storage Opportunities.

Pages 41 and 42 of that document, as per the following link to Council's website, provide details of the various buildings identified as potential sites.

[corporate-emissions-reduction-plan-cerp-final-plan-may-2024.PDF](https://www.nsw.gov.au/corporate-emissions-reduction-plan-cerp-final-plan-may-2024.PDF)
([nsw.gov.au](https://www.nsw.gov.au))

At this stage there is no estimate of costs in that document, for each site, with the opportunities to be evaluated on a case-by-case basis.

Future contracts may be allocated to individual projects, or as a group, dependent on the feasibility evaluation and the size and scope of each project.

Only matters requiring a Council resolution, or a budget allocation, will be reported to Council.

In summary, Council's procurement procedures are regularly reviewed to ensure they remain contemporary. Council's internal auditors, Grant Thornton, last completed a procurement review in 2020, with the next review scheduled for 2026/27.

Councils operate effectively through a wide range of delegations. Procurement authority is a key delegation, and contracts based on the value of this solar panel installation, approximately \$70,000, are typically dealt with at a Section Manager level, without any review by Directors or the General Manager.

Finally, it is important to record the forecast outcomes from the current contract to support this expenditure.

11.1 Questions With Notice - Solar Panel Installation Contract

The cost of the new solar system is \$64,374.54, ex GST, after the STC discount is applied by the contractor.

It is predicted that the new system will produce approximately 182,000 kWh of energy per year.

This energy being primarily used by the large pool heating units, and very little going to the grid.

Council's contract with Iberdrola Pty Ltd (Council's electricity supplier) provides electricity at large usage sites, for a cost of approximately \$0.2422 per kilowatt hour.

When calculated out, the new solar system will save approximately \$43,878 per annum.

Based on these figures the system will pay for itself in approximately one and half to two years, allowing for periods that some of the solar production will go to the grid.

This is an excellent outcome for Council, the community and the environment.

EXPLANATORY NOTE

Questions With Notice is an agenda item in the Office of Local Government's Model Code of Meeting Practice template.

Council's adopted Code of Meeting Practice states that a Question With Notice must be submitted nine business days before the meeting is held.

The Office of Local Government has also confirmed that the inclusion of a Question With Notice does not authorise debate.

It is a public record of the question and answer recorded in the Council agenda and no resolution is required.

If a Councillor wishes to see a matter debated, it must be submitted as a Notice of Motion to the meeting.

Attachment(s)

Nil

11.2 Notice of Motion - Solar Expansion

11.2 Notice of Motion - Solar Expansion

Councillor

Cr Bruem

I move:

1. That the awarding of the contract by Ballina Shire Council to Premium Solar Ballina to supply and install 227 Premium Sumec Phono 440W Helios HJT panels on the roof of the Ballina Memorial Swimming Pool be referred to the Council's Audit and Risk and Improvement Committee for review, along with two previous contracts awarded to the same company.
2. That the Audit Risk and Improvement Committee be requested to report back to the council and the NSW Premier and Minister for Local Government on any potential improvements it may identify to improve accountability of the process involving councillors tendering for projects and the involvement of other key personnel both past and present.

Staff Comments

As per the comments for the Questions With Notice item in this agenda, two contracts were not with Council, and one was with Council.

The Questions With Notice provide the background for this Notice of Motion.

COUNCILLOR RECOMMENDATIONS

1. That the awarding of the contract by Ballina Shire Council to Premium Solar Ballina to supply and install 227 Premium Sumec Phono 440W Helios HJT panels on the roof of the Ballina Memorial Swimming Pool be referred to the Council's Audit and Risk and Improvement Committee for review, along with two previous contracts awarded to the same company.
2. That the Audit Risk and Improvement Committee be requested to report back to the Council and the NSW Premier and Minister for Local Government on any potential improvements it may identify to improve accountability of the process involving councillors tendering for projects and the involvement of other key personnel both past and present.

Attachment(s)

Nil

11.3 Notice of Motion - Macaranga Tanarius Planting

11.3 Notice of Motion - Macaranga Tanarius Planting

Councillor

Cr Chate

I move that:

That Council reverses its position in respect to resolution 240424/23 and approves the reinstatement of the planting of the Macaranga Tanarius plant as part of the accepted species planted by Council and local community groups.

Councillor Comments

The Macaranga Tanarius is a native Australian pioneer rainforest species that really comes into its strength when it comes to revegetating areas of damaged or disturbed rainforest. Since our April meeting when we banned the planting of this species, I have had a number of conversations with rainforest regenerators and other similarly knowledgeable people, all of whom express horror at Council's resolution on this issue.

I believe we need to bring "science" on board and take another look at the Macaranga Tanarius, which definitely has its place as a pioneer rainforest species within Ballina Shire.

Staff Comments

Resolution 240424/23 from 24 April 2024 Ordinary meeting was as follows:

That Council stop the planting of the "Macaranga tanarius" Native tree from the list of accepted tree species being planted by Council and local community groups.

Clause 17.6 of Council's Model Code of Meeting Practice states as follows:

*A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors **if less than three (3) months** has elapsed since the resolution was passed, or the motion was lost.*

The 25 July 2024 meeting will be one day over the three month period (24 April to 25 July), which means that three signatories are not required for what is effectively a rescission of the original motion.

COUNCILLOR RECOMMENDATION

That Council reverses its position in respect to resolution 240424/23 and approves the reinstatement of the planting of the Macaranga Tanarius plant as part of the accepted species planted by Council and local community groups.

Attachment(s)

Nil

11.4 Notice of Motion - Ambrose Lane, Alstonville

11.4 Notice of Motion - Ambrose Lane, Alstonville

Councillor

Cr Chate

I move:

1. That Council prioritise the construction of kerb and guttering on Green Street, Alstonville, on either side of the intersection with Ambrose Lane.
2. That Council consider prohibiting long-term parking within Ambrose Lane, Alstonville.

Councillor Comments

This medium density Ambrose Lane development has been extremely contentious within the Alstonville community.

Point 1:

The 8-unit development provides garaging for four vehicles only, and Ambrose Lane itself is very narrow and provides little, if any, acceptable option for parking.

The majority of the residents and visitors of the development, park on the muddy grass verge in Green Street, on either side of the entrance to Ambrose Lane.

It is not uncommon to find parked vehicles crammed together in this area, and even extending onto the busy road itself. The grass verge is now very seriously degraded, and the community is dissatisfied with the parking situation at this site.

The addition of kerb and guttering should not be at a large cost to Council.

It would only cover a very short distance, (perhaps 40 metres,) and it would significantly impact the type and quantity of available parking spots at the area.

Kerb and guttering would provide for parallel parking only and leave no further room to park on the highly degraded grass verge.

Rather than trying to squeeze a vehicle in between other cars on the grass verge, drivers will simply need to drive around the nearby corner or up the lane to the nearby Telstra carpark to find a park.

Point 2:

Any vehicles parked in Ambrose Lane seriously can impact the accessibility of other vehicles down the lane, including emergency vehicles.

This was recently brought to the fore on two separate occasions when a resident of Ambrose Lane had two heart attacks, both times requiring immediate medical assistance.

11.4 Notice of Motion - Ambrose Lane, Alstonville

When the first responders arrived, they were unable to enter the lane due to vehicles being parked there and therefore had to leave the emergency vehicle double parked on Green St, then wheel the gurney up to 100 metres down to the bottom of the lane.

On one occasion, it was even raining while this was happening.

The resident did survive, however, the delays to the medical personnel could have proved fatal.

There are also issues with garbage collection in this lane as well, so much so that there is now a parking prohibition from 5am – 11am on Thursdays. This lane is so narrow, and emergency vehicle access is essential.

Staff Comments

The current status of the development is the dual occupancy developments at 14 and 16 Ambrose Lane have been the subject of development compliance investigation.

In response, the landowner lodged a development application for both sites seeking approval for the use of existing studio rooms as secondary dwellings.

The key issue is whether the studio rooms can be occupied as separate dwellings, and this is dependent on the outcome of the assessment of the applications.

If the applications are refused, four separate studio spaces across the two sites will not be able to be occupied as separate dwellings, leaving a dual occupancy development at 14 and 16 Ambrose Lane, that is, four dwellings as opposed to eight.

In respect to kerb and guttering on Green Street, the timing of the submission only allowed staff to prepare a preliminary assessment and accordingly the following comments are preliminary in nature.

If this project is to proceed, staff recommend the kerb and gutter extend the length of the street to connect to the existing kerb at the intersections. The estimated length for this is 75 metres. A copy of a possible concept design is attached.

To install the kerb and gutter properly and to facilitate parallel parking, shoulder pavement works and driveway adjustments are required and these are shown in the attachment.

Based on the above scope of work, a high level cost estimate for the project is approximately \$57,000.

Accordingly, before a final commitment is made, it is recommended Council receive a report from staff that provides a more comprehensive assessment of the options and cost feasibility. This information can be included in the next capital works update report to Council.

As Council has only recently adopted the capital works program for 2024/25 at the June 2024 Ordinary meeting, this change to the program may result in other scheduled works being deferred.

11.4 Notice of Motion - Ambrose Lane, Alstonville

In respect to prohibiting parking within Ambrose Lane, experience in responding to requests of this type is that the support for parking restrictions typically softens as residents assess the trade off between the existing level of access to their property, compared to the amenity and other benefits from parking controls.

If Council is inclined to pursue this proposal, it is recommended a formal consultation process be conducted with all impacted property owners and the results reported to Council.

If parking controls are preferred, because this would involve regulatory signage, Local Traffic Committee approval is required.

A referral to the Local Traffic Committee could be made once Council has considered the feedback from the consultation process.

COUNCILLOR RECOMMENDATIONS

1. That Council prioritise the construction of kerb and guttering on Green Street, Alstonville, on either side of the intersection with Ambrose Lane.
2. That Council consider prohibiting long-term parking within Ambrose Lane, Alstonville.

Attachment(s)

1. Possible Concept Design - Green Street [⇨](#)
2. Green Street / Ambrose Lane, Alstonville Images [⇨](#)

11.5 Notice of Motion - Scenic Vista Policy

11.5 Notice of Motion - Scenic Vista Policy

Councillor

Cr McCarthy

I move

That Council initiates a draft Scenic Vista Policy report that aims to restore, protect and enhance the iconic coastal vistas of Ballina Shire.

Councillor Comments

The Ballina Shire is long recognised for its iconic, scenic ocean vistas. Our iconic coastal vistas and our shire's Norfolk Island Pine trees are our Shire's competitive advantage, and dwell in our peoples and visitors' memories.

It is therefore important and urgent that we consider all visual impacts that land use has had may have on these important vistas or scenic landscapes.

It is urgent that council receives a draft Scenic Vista Policy report that aims to restore, protect and enhance the iconic coastal vistas of Ballina Shire by:

- Identifying which views are valued by the community.
- Restore the views which are valued by the community.
- Provide polices and guidelines to support land management use and any planning or development, if required.
- Aims to include the principles of view-sharing where necessary.
- Aims to address the potential impacts of mass tree plantings on iconic vistas.

The policy to focus on restoring, protecting, and managing our scenic coastal vistas as seen from publicly accessible locations, including the iconic drive along the Coast Road past Lennox Point and Skennars Headland etc.

Any visual impact assessment report would reveal significant impacts to:

- The lower surfer's carpark at Lennox Point
- The view from the Coast Road between the lower surfer's and Pat Morton carparks
- The loss of reeds and grasses at Lennox point
- The view from Pat Morton carpark
- The Iconic vista of Lennox Headland
- The iconic vista of the Skennars Headland and along the Coast Road
- The iconic vista from Ballina Lighthouse of North Wall and Main Beach etc.

Tall vegetation, particularly, blocks iconic views from the lower surfer's carpark, Pat Morton carpark, The Coast Road, and Skennars Head.

It should be noted that vegetation is now invading the iconic Norfolk Island pines at Sharpes Beach.

11.5 Notice of Motion - Scenic Vista Policy

There is nothing like the feeling of going over the top of Skennars Head and seeing the ocean. Or having sight of the surf at Lennox Point from the Coast Road as you drive to your destination. Or sitting at the Ballina Lighthouse or the carpark having morning tea or lunch watching the ocean.

The iconic coastal vistas of Ballina Shire are highly desirable for those who visit and love our area and lifestyle.

Staff Comments

At the June 2024 Ordinary meeting, Council adopted the 2024/25 Operational Plan, which includes a significant number of actions to be undertaken during the current financial year.

The Operational Plan was adopted following community consultation and reporting on the submissions to Council.

Ideally an item such as this notice of motion should have formed part of that exhibition period, or as part of the submissions. The preference from an operational perspective is for this proposal to be considered as part of the formulation of the 2025/26 Operational Plan.

COUNCILLOR RECOMMENDATION

That Council initiates a draft Scenic Vista Policy report that aims to restore, protect, and enhance the iconic coastal vistas of Ballina Shire.

Attachment(s)

Nil

12. Advisory Committee Minutes

12. Advisory Committee Minutes

Nil Items

13.1 Mayoral Meetings

13. Reports from Councillors on Attendance on Council's behalf

13.1 Mayoral Meetings

Councillor Sharon Cadwallader

Activities I have attended, or propose to attend, as at the time of writing this report, since the June 2024 Ordinary meeting are as follows:

<u>Date</u>	<u>Meeting</u>
28 June	Ballina Lions Club 72 nd Annual Changeover Dinner
30 June	Wonderful Wardell event
1 July	Lennox Head Residents Association meeting
3 July	Dementia Inclusive Ballina Alliance Activity Group 2 nd Birthday
4 July	Northern Rivers Joint Ministers Visit to Wardell with Minister Scully and Minister Dib
5 July	Meeting with The Hon. Jihad Dib MP, Minister for Customer Service and Digital Government; Emergency Services; and Youth Justice
5 July	Alstonville Wollongbar Chamber of Commerce meeting
6 July	Alstonville founding family reunion
6 July	Ballina Chamber of Commerce 2024 Business Excellence Awards Night
7 July	Skullcandy Oz Grom Open sponsors event
8 July	Australian Coastal Councils Association (ACCA) Zoom Meeting
8 July	NAIDOC Annual Celebration Walk
9 July	Country Mayors virtual meeting - Essential Energy update
9 July	Alstonville business expansion opening
9 July	A Ward Committee meeting
9 July	Rotary Club of Alstonville Changeover Dinner
10 July	NSW Reconstruction Authority and Disaster Adaptation Plan
10 July	Donations Working Party meeting
11 July	Alstonville RSL Sub Branch Commemoration of Middle East Area of Operations (MEAO) Day
11 July	Ballina RSL Commemoration of Middle East Area of Operations (MEAO) Day
11 July	C Ward Committee Meeting
12 July	Martin Street Boat Harbour meeting
12 July	'Glad Not Sad Book' launch – Kim Michelle Toft
15 July	Northern Rivers Community Leaders Forum – Mayors and MPs
15 July	B Ward Committee meeting
16 July	Ballina Hospital Auxiliary AGM
17 July	Rous County Council Workshop
17 July	Rous County Council Extraordinary meeting
18 July	On-site inspection of DA 2022/569 – Cedars Caravan Park redevelopment – mixed use business, light industry and residential development
20 July	NSW Mini Golf Championship Event Opening (speech)
22 July	Cr Briefing - Hampton Park Master Plan Update and Sharpes Beach Car Park Upgrade
23 July	Ballina Library Boost grant announcementp
24 July	Marina investor meeting with Staff
25 July	Ordinary meeting

RECOMMENDATION

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

Attachment(s)

Nil

14. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

14.1 General Manager - Performance Review (Confidential)

This report contains information relating to Personnel matters concerning particular individuals (other than councillors).

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

14.1 General Manager - Performance Review (Confidential)

Reason for Confidentiality

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

- a) personnel matters concerning particular individuals (other than councillors)

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest Personnel matters concerning particular individuals (other than councillors).