

Agenda

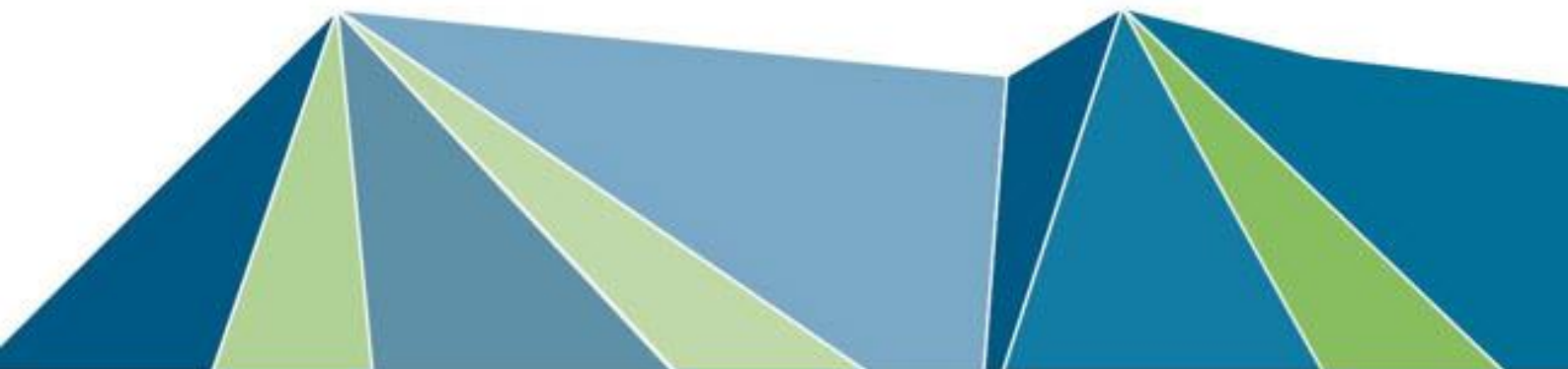
Ordinary Meeting **24 October 2024**

An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **24 October 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 22 August 2024 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 22 August 2024.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2023/479 - Tourist and Visitor Accommodation - 52 & 54 Ballina Street, Lennox Head

8. Planning and Environmental Health Division Reports

8.1 DA 2023/479 - Tourist and Visitor Accommodation - 52 & 54 Ballina Street, Lennox Head

Applicant	Newton Denny Chapelle
Property	Lot 35 Section 2 DP 11687, Lot 34 Section 2 DP 11687, 52 & 54 Ballina Street, Lennox Head
Proposal	Construction of a tourist and visitor accommodation development comprising hotel accommodation (35 rooms), guest services including swimming pool and bar, restaurant, two level basement car park for hotel patrons and the general public (paid parking after 1 hour) lot consolidation, and associated demolition works, earthworks, dewatering, vegetation management works, landscaping and civil works.
Effect of Planning Instrument	The lands are zoned E1 Local Centre under the provisions of the Ballina LEP 2012.

Introduction

Council is in receipt of DA 2023/479 for the construction of a three storey tourist and visitor (hotel) accommodation development (comprising 35 rooms) including a ground floor restaurant and two basement levels comprising hotel car parking and surplus car spaces to be used as a paid public car park at 52 and 54 Ballina Street, Lennox Head, formally described as Lot 35 and 34 Section 2 DP 11687.

The site is located at the corner of Ballina Street and Park Lane, at the southern end of the Lennox Head Village Centre (“Village Centre”).

The site has three street frontages including Ballina Street to the east and Park Lane to the south and the west, with a total site area of 1,736m².

The location of the site is shown in Figure 1 and Attachment 1.

The proposed development seeks a variation to the building height and the floor space ratio (FSR) development standards (in Clause 4.3 Height of buildings and Clause 4.4 FSR of the BLEP 2012).

The application is required to be determined by the elected Council as the variation to the FSR development standard is greater than 10%.

This report provides a brief assessment of the key planning considerations relevant to the proposed variations to the BLEP 2012, height and FSR development standards, and the surplus paid car parking spaces for public use.

8.1 DA 2023/479 - Tourist and Visitor Accommodation - 52 & 54 Ballina Street, Lennox Head

In addition, a brief assessment of the relevant matters of the proposal under Section 4.15 of the Environmental Planning and Assessment Act (EP&A Act) 1979 is included.

A full assessment of the DA against the relevant matters for consideration under Section 4.15 of the EP&A Act 1979 is provided at Attachment 2.



Figure 1: Aerial view of the site (subject land comprises two lots, 52 and 54 Ballina Street, marked in red)

Details of the Proposal

The development application seeks consent for the development of 'The Surf Lodge' which comprises tourist and visitor accommodation (hotel). Specifically, the proposed development involves the following components which have been described by the applicant:

- Demolition of all structures from the site and vegetation management works
- Development of three storey tourist and visitor hotel accommodation development comprising 35 rooms. The below room allocation is provided on each floor of the proposed development:
 - Ground Floor – 5 rooms
 - Level One – 15 rooms
 - Level Two – 15 rooms
 - Seven different room styles are proposed across the 35 accommodation rooms/suites, including bunk rooms, family suites and four accessible rooms.
- Guest services inclusive of reception, lobby, bar and swimming pool
- Ground floor restaurant comprising an area of 185m² and open to hotel guests and the public.

8.1 DA 2023/479 - Tourist and Visitor Accommodation - 52 & 54 Ballina Street, Lennox Head

- Two level basement car park – comprising 86 car parking spaces.

The hotel reception will be staffed 24 hours a day, 7 days a week.

The below identifies and summarises key elements of the proposal

Bulk Earthworks and Dewatering

The development is proposing to provide two basement levels and given this, significant earthworks are required. Existing ground level for the site is approximately 5.3m AHD with the lowest proposed store/services level at -2.0m AHD. Accordingly, a maximum cut depth of approximately 7.3 metres is estimated.

The applicant has advised that preliminary earthworks volumes have been calculated for the site, estimating the following cut/fill volumes:

- Cut – 12,000m³
- Fill – 0m³
- Balance – 12,000m³

Vegetation Management Works

The proposed development will result in the removal of five native trees including:

- Two Tuckeroos
- One Native Frangipani
- One Black Tea Tree
- One Brush Cherry

On-Site Car Parking

A total of 86 car spaces will be provided within the basement levels, 50 of which are required to accommodate the hotel use.

The remaining 36 car spaces are surplus spaces and will operate as a paid public car park for visitors of the Lennox Head Village Centre. The applicant has advised that it is envisioned that the first hour of parking will be made available for free then paid parking would be triggered post the one hour duration. This will be conditioned on the notice of determination.

The Architectural Plans are provided at Attachment 3 and the Landscape Plans are provided at Attachment 4.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was placed on public exhibition from 17 January 2024 to 16 February 2024 in accordance with Council's Community Participation Plan.

A total of 30 submissions were received including 5 confidential submissions. Of the 30 submissions received, 19 were in support of the proposed tourist and visitor accommodation and 11 individual submissions raised concerns regarding the proposal.

A summary of the submissions and responses to the matters raised is provided in the Section 4.15 Assessment Report in Attachment 2.

Copies of the public submissions received are contained in Attachment 5. Confidential submissions are contained in Attachment 6.

Applicable Planning Instruments

The proposed development is subject to the Ballina Local Environmental Plan 2012 (LEP) as well as the Ballina Shire Development Control Plan 2012 (DCP) and 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 Report in Attachment 2.

In summary, with respect to the LEP and DCP, the proposed development is permissible in the E1 Local Centre zone and aligns with the objectives the DCP including those specifically relating to Precinct A of the Lennox Head Village.

Report

Matters for Consideration

The proposed development has been assessed under the heads of consideration in Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The assessment has identified the following key issues in relation to this development application, which are elaborated upon for the consideration of the elected members of Council.

This report should be read in conjunction with the attached Section 4.15 assessment report.

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

Relevant State Environmental Planning Policies (SEPP's)	
<ul style="list-style-type: none">• SEPP (Resilience and Hazards) 2021• SEPP (Transport and Infrastructure) 2021• SEPP (Sustainable Buildings) 2022	The development satisfies the relevant matters for consideration of the applicable SEPP's and conditions of consent can be imposed to satisfactorily address matters arising under these policies. A detailed assessment for each applicable SEPP is provided in Attachment 2.

Local Environmental Plan	
<ul style="list-style-type: none"> Ballina Local Environmental Plan 2012 	<p>The site is zoned E1 Local Centre and hotel accommodation, restaurants and car parks are permitted with consent in this zone. The proposal is consistent with the aims of the LEP and the objectives of the zone. The proposal also has regard to the relevant additional local provisions of the LEP.</p> <p>The proposal seeks a variation to Clause 4.3 - Height of buildings and to Clause 4.4 – Floor space ratio (FSR). A written request and justification has been submitted for each variation.</p> <p>The proposed height and FSR variations are addressed separately below.</p>

Building Height Variation

Clause 4.3 (Height of Buildings) of the BLEP 2012 prescribes a maximum building height requirement of 9 metres for the subject site.

The application includes a variation to the 9 metre Height of Building development standard. The maximum height of the proposed building is 9.65 metres, measured from existing ground level, and therefore the height standard is exceeded by a maximum of 650mm or 7.2%.

Figure 2 shows the extent of the variation.

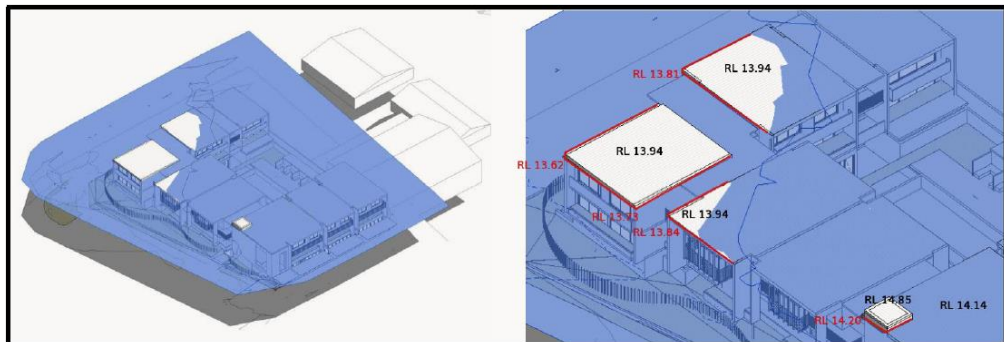


Figure 2: Extent of height variation (blue represents sections of the development within the 9 metre height limit and white represents portions of the building exceeding the 9 metre high limit)

The following sections of the roof exceed the height limit:

- Lift overrun in the southeast corner of the building; and
- Three areas of the roof in the western portion of the building.

There are no areas of habitable space which exceed the building height limit of 9 metres.

A detailed assessment of the submitted written request to vary the height standard is provided in Attachment 2. In summary, the applicant's justification for the variation is the achievement of an architecturally designed three storey building that is of a scale consistent with other commercial and mixed-use developments approved within the Lennox Head Village Centre and that adverse overshadowing, overlooking and view loss impacts will be avoided due to the corner location of the site.

Acknowledging the location of the site at a prominent corner and southern entry into the Lennox Head Village Centre, the written request also identifies that the height exceedance will not significantly impact or materially change the Village Centre streetscape, and that adequate landscaping is provided within the proposed setbacks surrounding the building to further reinforce the public domain interface.

The written request demonstrates that the objectives of the building height standard are achieved by the development notwithstanding the variation and that there are sufficient environmental planning grounds to justify the variation.

Floor Space Ratio Variation

Clause 4.4 (Floor Space Ratio) of the BLEP 2012 prescribes a maximum FSR requirement of 0.8:1 for the subject site, which equates in this instance to 1,388m², based on a site area of 1,736m².

The application proposes to vary the FSR standard by 1,070 m² of gross floor area (GFA), which is a FSR of 1.42:1. This equates to a variation of 61.5%.

In accordance with the GFA definition, the number of surplus car spaces provided above the minimum parking requirement (of 50 spaces) must be included in the GFA calculation.

Whilst it is difficult to pinpoint the actual location of the proposed FSR exceedance, the additional GFA is attributed to the (36) surplus car parking spaces in the basement and a portion of the built form located above ground level.

A detailed assessment of the submitted written request to vary the FSR standard is provided in Attachment 2. In summary, the applicant's justification for the variation is that the application proposes a three storey building that is reflective of the built form anticipated in E1 Local Centre zone and the Lennox Head Village Centre which is an area undergoing transition.

The development generally conforms to the relevant DCP controls for new development in the Lennox Head Village Centre, besides the building setbacks. The FSR variation does not contribute to adverse bulk and scale impacts within the Lennox Head Village Centre and will achieve an appropriate scale and built form transition which is consistent with the character anticipated.

The written request demonstrates that despite the breach that all habitable space sits below the 9 metre building height limit and the proposed envelope does not contribute to adverse bulk and scale impacts such as overshadowing, visual privacy and visual impact within the surrounding streetscape.

The written request demonstrates that the objectives of the FSR standard are achieved by the development notwithstanding the variation and that there are sufficient environmental planning grounds to justify the variation.

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, 4, 6 and 6c of the DCP apply to the proposed development.

The development has been assessed as being consistent with the provisions of the DCP with variances justified, and conditions of consent can be imposed to satisfactorily address matters arising in these circumstances.

Paid public car parking

In terms of car parking, the proposed number of car parking spaces comply with the relevant parking rates in Chapter 2 of the DCP for the proposed development.

A total of 36 surplus car spaces are provided which will operate separately to the hotel, as a paid public car park. The paid public car parking spaces will be available to all members of the public visiting the Lennox Head Village Centre.

The submitted Traffic Assessment Report identifies that paid parking is proposed to operate with a ticket system whereby users will collect a ticket at the boom gate and on exit make payment at the boom gate for the amount of time parked.

Appropriate conditions will be imposed to prevent any conflict in use between the hotel parking and the proposed paid public car spaces, including the preparation of a car parking plan of management to detail how the car parking levels will be managed.

Building setbacks

A variation to the 1 metre building setback requirement along Ballina Street is proposed. This is a minor variation caused by the balconies facing Ballina Street on Level 2 and 3. Despite this, the building exceeds the setback requirement at the ground level which encourages street activation.

This encroachment is minor in nature, and it is considered that the balconies provide architectural interest at the public domain interface, which are shown to the left of the image in Figure 3.

The development also includes a variation to the 4 metre setback requirement along Park Lane. This encroachment is limited to the corner of the building at the intersection of Park Lane and Ballina Street.

Despite this encroachment, the building design is accentuated and incorporates architectural design elements in this location to reinforce the prominent corner location of the site, at the southern entry of the Lennox Head Village Centre (as shown in Figure 3 below).

The building predominantly exceeds the 4 metre setback requirement along the remainder of the Park Lane frontage.

8.1 DA 2023/479 - Tourist and Visitor Accommodation - 52 & 54 Ballina Street, Lennox Head

The setback variations do not result in amenity impacts and no further concerns are raised.



Figure 3: 3D photo montage of proposed building viewed from the corner of Ballina Street and Park Lane.

Overall, the proposed building is consistent with the built form objectives applying to new development in the Lennox Head Village Centre which are set out in Chapter 6c of the DCP.

The inclusion of the ground floor restaurant, with outdoor dining, will provide for an active street frontage along Ballina Street and further activate the surrounding Village Centre in accordance with the relevant controls in the BDCP 2012.

Refer to the Section 4.15 Assessment, Attachment 2, for a more detailed commentary relative to the BDCP 2012.

Section 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.

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

No issues raised, refer to the Section 4.15 Assessment Report in Attachment 2 for a detailed discussion.

Section 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.

The excavation works required to facilitate the proposed basement also require associated dewatering which has been assessed by the relevant State Regulatory Authority, WaterNSW.

WaterNSW has considered the proposed works to be acceptable and General Terms of Approval have been issued. A copy of the GTAs are provided in Attachment 7.

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

The site has been assessed as suitable for the proposed development. In particular, the proposal is consistent with the objectives of the E1 Local Centre zone and the precinct specific DCP provisions applying to the Lennox Head Village Centre.

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

A total of 30 submissions were received including 5 confidential submissions. Of the 30 submissions received, 19 were in support of the proposed tourist and visitor accommodation and 11 individual submissions raised concerns regarding the proposal.

Key issues raised in objection to the development included traffic impacts, construction impacts, amenity impacts including overshadowing and the scale of the development.

Key items that have been raised in support of the application include that the development provides Lennox Head with more tourist accommodation that is needed in the locality, it is a well designed architectural development that offers sensitive landscaping and will tie in with the village centre upgrade works, extra car parking has been provided in addition to the parking requirements, the development is of benefit to small business owners and that the development does not impact in terms of bulk, scale and overshadowing.

Copies of the public submissions received are contained in Attachment 5. Confidential submissions are contained in Attachment 6.

A summary of the submissions and responses to the matters raised is provided in the Section 4.15 Assessment Report in Attachment 2.

In terms of Government Agency advice, Council received a submission from Essential Energy and General Terms of Approval (GTAs) have been issued by WaterNSW in relation to the proposed basement construction and associated required dewatering of the site. A copy of the GTAs are provided in Attachment 7.

There are no matters raised in the agency submissions that would preclude the granting of consent, subject to conditions.

4.15 (1) (e) The Public Interest

The proposal will facilitate the redevelopment of a prominent corner site, located at the southern entry to the Lennox Head Village Centre, and is of a nature and form that is reflective of the E1 Local Centre zone. Although the development results in variations to the provisions under the BLEP 2012 (building height and FSR) and DCP 2012 (building setbacks), assessment of the variations has been undertaken and they are considered acceptable in this instance.

8.1 DA 2023/479 - Tourist and Visitor Accommodation - 52 & 54 Ballina Street, Lennox Head

The proposal will result in a well-located tourist and visitor accommodation within the Lennox Head Village Centre, that will provide short-term accommodation. This has positive benefits in terms of accommodation offerings in Lennox Head and associated economic activity.

The development is consistent with the applicable planning controls, in particular the BLEP 2012 and BDCP 2012.

The development is considered to be in the public interest.

Options

Option 1- Approve the Application

Council can approve the development application for the tourist and visitor accommodation comprising hotel accommodation (35 rooms), guest services including swimming pool and bar, restaurant, two level basement car park for hotel patrons and the general public (paid parking after 1 hour) lot consolidation, and associated demolition works, earthworks, dewatering, vegetation management works, landscaping and civil works, subject to conditions foreshadowed in the Section 4.15 Assessment Report, non- standard conditions set out in Attachment 8 and 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 and FSR standards will be achieved despite the variation to these standards and that the proposed variation to the DCP controls relating to building setbacks are acceptable.

Approval of the proposed development with conditions is recommended.

Option 2- Refuse the Application

Council could refuse the application for specified reasons.

Reasons for refusal could relate to the departure from the maximum building height and FSR standards 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 zone.

Refusal is not recommended.

Option 3 – Defer a Decision on the Application

Council could defer its decision on this matter to seek further information and/or receive a briefing.

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

8.1 DA 2023/479 - Tourist and Visitor Accommodation - 52 & 54 Ballina Street, Lennox Head

Environmental Plan 2012, the Ballina Shire Development Control Plan 2012 and the submission 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 and the FSR standard are achieved, despite the variation to Clause 4.3 Height of buildings and Clause 4.4 Floor space ratio of the BLEP 2012.

RECOMMENDATIONS

1. That Council endorses the proposed variation to the Clause 4.3 Height of buildings development standard under Ballina Local Environmental Plan 2012 to enable a maximum building height of up to 9.65 metres (equating to a variation of 7.2%) for the reasons outlined in this report.
2. That Council endorses the proposed variation to the Clause 4.4 Floor space ratio development standard under Ballina Local Environmental Plan 2012 to enable a maximum FSR of 1.42:1 (equating to a variation of 61.5%) for the reasons outlined in this report.
3. That Development Application 2023/479 for tourist and visitor accommodation development comprising hotel accommodation (35 rooms), guest services including swimming pool and bar, restaurant, two level basement car park for hotel patrons and the general public (paid parking after 1 hour) lot consolidation, and associated demolition works, earthworks, dewatering, vegetation management works, landscaping and civil works be **APPROVED** subject to application of conditions foreshadowed in the Section 4.15 Assessment Report in Attachment 2, non-standard conditions set out in Attachment 8, as well as standard planning, environmental health, civil and building conditions for this type of development.

Attachment(s)

1. DA 2023/479 - Locality Plan [⇨](#)
2. DA 2023/479 - Section 4.15 Assessment Form [⇨](#)
3. DA 2023/479 - Architectural Plans [⇨](#)
4. DA 2023/479 - Landscape Plans [⇨](#)
5. DA 2023/479 - Public Submissions [⇨](#)
6. DA 2023/479 - Confidential Submissions [⇨](#)
7. DA 2023/479 - WaterNSW General Terms of Approval [⇨](#)
8. DA 2023/479 - Non-standard Conditions [⇨](#)

8.2 DA 2023/209 - 6 Henry Philp Avenue Ballina - Review of Determination

8.2 DA 2023/209 - 6 Henry Philp Avenue Ballina - Review of Determination

Applicant	Ardill Payne & Partners 45 River Street BALLINA NSW 2478
Property	Lot: 7 DP: 206335, 6 Henry Philp Avenue BALLINA
Proposal	To undertake the demolition of an existing dwelling house and shed and the construction of an attached dual occupancy.
Effect of Planning Instrument	The land is zoned R3 Medium Density Residential under the provisions of the Ballina LEP 2012.
Locality Plan	The location of the subject land is shown in Figure 1 and Attachment 1.

Introduction

Council is in receipt of a request for a review of determination made under Section 8.3 of Division 8.2 of the Environmental Planning and Assessment Act 1979 (EP&A Act). The request is made in respect to the determination of development application DA 2023/209 on 20 May 2024 by way of refusal.

The request for the review was lodged with Council on 2 September 2024.

Under the terms of the EP&A Act the review of determination must be completed by 20 November 2024.

The proposal relates to the demolition of an existing dwelling house and detached shed, and the erection of a two storey attached dual occupancy at 6 Henry Philp Avenue, Ballina.

The location of the land is shown in Attachment 1 and Figure 1.



Figure 1: Locality Plan – 6 Henry Philp Avenue Ballina

8.2 DA 2023/209 - 6 Henry Philp Avenue Ballina - Review of Determination

The application was originally determined by the Director of Planning and Environmental Health.

The review of determination is therefore required to be undertaken by the elected Council.

Background

Development Application 2023/209 was refused by Council under delegated authority on May 2024 by way of refusal. The following is the list of reasons for refusal and is included within Attachment 3.

1. The proposal does not achieve the planning objectives or comply with the development controls outlined in J. Element - Solar Access of Chapter 4 of the Ballina Shire Development Control Plan 2012, with regard to the location and orientation of the main indoor space and major window areas of Unit 1 (southern dwelling). The proposed development (Unit 1) therefore will not receive adequate direct sunlight to the main living area space.
2. The proposal does not achieve the planning objectives or comply with the development controls outlined in C. Element – Building Envelopes of Chapter 4 of the Ballina Shire Development Control Plan 2012. The development results in a proposal that is not consistent with the bulk and character of the locality.
3. The proposal does not achieve the planning objectives or comply with the development controls outlined in D. Element – Articulation Zone of Chapter 4 of the Development Control Plan 2012. As per I. Element – Overlooking and Privacy if balconies are required to have privacy screening, they are not permitted within the articulation zone.
4. The proposal does not achieve the planning objectives or comply with the development controls outlined in I. Element – Overlooking and Privacy of Chapter 4 of the Development Control Plan 2012. The applicant has not demonstrated that the development will not unduly affect the adjoining properties by impinging on privacy, specifically in relation to Clause (ii) dot point 3.
5. The proposal does not achieve planning objectives a, b or c set out in clause 3.1.2 of Chapter 4 of the Ballina Shire Development Control Plan 2012 due to encroachments into the building height plane, encroachment into the articulation zone and inadequate solar access to living areas.
6. The proposed development does not meet the requirements of Clause 37 of the Environmental Planning and Assessment Regulation 2021, in that a replacement BASIX Certificate was not provided in respect of the amended development plans.
7. The approval of the proposed development is not in the public interest.

Proposal

The proposed development comprises the demolition of the existing dwelling house and detached shed and the construction of a two storey attached dual occupancy. The proposal will include site filling, and ancillary civil works and

8.2 DA 2023/209 - 6 Henry Philp Avenue Ballina - Review of Determination

site landscaping. The development is a permissible land use within the R3 Medium Density Residential zone under the Ballina Local Environmental Plan 2012 (BLEP 2012).

As part of the request for a review of determination, the applicant has made amendments to the development proposal and provided additional information to address the reasons for refusal.

Key changes and considerations relative to the reasons for refusal of the development application are outlined below.

1. The applicant had not reasonably demonstrated that the development had achieved adequate solar access to the main indoor living area associated with unit 1 as a minimum of three hours of direct sunlight (Winter Solstice) had not been achieved to the southern orientated unit. It was not shown that the objectives of the control had been achieved.

The applicant has amended the development to improve the solar access provisions to unit 1, including:

- Additional north facing highlight window above the roof line to provide direct solar access to the internal living area for unit 1 (southern unit).
- Additional north facing window above the balcony roof line to provide direct solar access to the covered first storey balcony for unit 1 (southern unit).
- Alterations to the ground floor internal floor plan, comprising, deletion of bedroom 3, and inclusion of a second living area on the western elevation.

The applicant has provided additional solar access documentation which demonstrates that the inclusion of the two new highlight windows and the new second living area with externally facing western windows can receive a minimum of 3 hours of direct sunlight between 9.00am and 3.00pm (Winter Solstice AEST), as required by J. Element – Solar Access within Chapter 4 of the Ballina Development Control Plan 2012 (BDCP 2012).

Refer to Attachment 2 for a more detailed assessment of the planning controls relating to Solar Access.

2. The assessment of the development proposal had determined that the bulk and scale of the development was not acceptable with regard to the objectives of C. Element – Building Envelopes as contained within Chapter 4 of the BDCP 2012. Specific consideration during the original assessment was given to existing development in the locality and the form of the proposed development relative to building envelope controls.

The applicant has made changes to the bulk of the development by reducing the encroachment of the first storey balconies forward of the building line and reducing the overall length of the protrusions beyond the building envelope. In addition, the applicant has provided additional information that was not made available previously to demonstrate that the objectives of the building envelope control are achieved, despite the presence of protrusions.

8.2 DA 2023/209 - 6 Henry Philp Avenue Ballina - Review of Determination

The development has achieved an acceptable level of conformity with the planning objectives of the control, despite the proposed variation. In summary, the development is consistent with the applicable objectives by providing a built form which ensures the occupants receive adequate solar access, achieves a varied streetscape contribution, minimises impacts on the amenity of adjoining properties and provides usable private open space areas.

3. The original proposal included part of the balcony within the articulation zone and within 3m of the side boundary. A reason for refusal of the original application was that the development did not comply with the articulation zone and privacy controls outlined in D. Element – Articulation Zone and I. Element – Overlooking and Privacy of Chapter 4 of the BSDCP 2012.

The proposed plans have been modified to remove all parts of the balcony from within the articulation zone.

The development has achieved compliance with the Articulation Zone control.

4. The original application did not comply with clause (ii) dot point 3 of I. Element - Overlooking and Privacy control in Chapter 4 of the BSDCP 2012 as privacy screening is not permitted within the articulation zone. As mentioned above, the development has now been amended to remove any part of the balcony (and privacy screening) from the articulation zone.

Privacy screening has been applied to the remainder of the balcony on both side boundary elevations in accordance with the control.

5. The applicant has now adequately demonstrated that the planning objectives (a), (b) or (c) set out in clause 3.1.2 of the Chapter 4 of the BSDCP 2012 relating to building height plane encroachments, encroachment into the articulation zone and solar access have been achieved via meaningful amendments made to the development proposal and additional supporting documentation.

Reason for refusal number 5 has been adequately addressed by the amendments and additional documentation provided.

6. The application documentation under the review of determination includes an updated BASIX Certificate which relates to the amended development plans. Reason for refusal number 6 is suitably addressed.
7. Given the amendments made to the proposal and the additional information provided under this review of determination, the proposal (as amended) is now considered to be in the interest of the public.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was advertised in accordance with Council's Community Participation Plan for Level 1 Target Notification.

Council did not receive any submissions in relation to the Section 8.3 application.

Applicable Planning Instruments

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- State Environmental Planning Policy (resilience and Hazards) 2021
- Ballina Local Environmental Plan 2012
- Ballina Shire Development Control Plan 2012

Report

An assessment of the amended development is contained within Attachment 2 (Section 4.15 planning report) for the consideration of the elected Council.

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 BLEP 2012 and BSDCP 2012

As part of the request for a review of determination under Section 8.3 of the EP&A Act 1979 the applicant has amended the development proposal and provided additional information to address Council's original reasons for refusal. The amended proposal has adequately demonstrated that the objectives of the BLEP 2012 and BSDCP 2012 are achieved.

Having regard for the outcomes of the review undertaken, Council has the following options with regard to determining the application.

Option 1 – Grant consent to the application

Council can approve the development for an attached dual occupancy development subject to standard planning, environmental health, engineering and building conditions.

This would be on the basis that Council is satisfied that the applicant has demonstrated that the proposal, as amended, has achieved an acceptable level of compliance with the applicable planning provisions and the development is in the interest of the public.

8.2 DA 2023/209 - 6 Henry Philp Avenue Ballina - Review of Determination

Option 2 – Refuse the application

Council could uphold the original decision to refuse development consent to DA 2023/209 on the basis that the applicant has not provided a reasonable response to the original reasons of determination and the development has failed to achieve planning objectives of the relevant planning controls.

If the application is to be refused, reasons for the refusal will need to be specified.

Option 3 – Deferral of the review of determination

Deferral of a decision on the review of the determination for DA 2023/209 is not recommended as deferral would not allow for Council to complete the review at a future ordinary meeting within the required statutory timeframe (being within six months of the original determination decision).

This could result in an appeal to the Land and Environment Court.

Having regard for the changes made to the proposal by the proponent and the supporting information provided it is considered that there is adequate and appropriate information available to complete the review of determination.

RECOMMENDATIONS

1. That Development Application 2023/209 for the demolition of an existing dwelling house and shed and the construction of an attached dual occupancy at 6 Henry Philp Avenue Ballina be **APPROVED** subject to standard planning, environmental health, engineering and building conditions.

Attachment(s)

1. DA 2023/209 - Locality Plan [⇨](#)
2. DA 2023/209 - Section 4.15 Assessment Form [⇨](#)
3. DA 2023/209 - Notice of Determination [⇨](#)
4. DA 2023/209 - Development Plans and BASIX [⇨](#)
5. DA 2023/209 - DCP Variation [⇨](#)

8.3 Development Applications - Works in Progress - September 2024

8.3 Development Applications - Works in Progress - September 2024

This report provides an overview of current development application activity. The data provided is to the end of the Q1 2024/25 financial year (i.e. to the end of September 2024).

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 1. 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

Assessment Timeframe	2024									
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	
Less than 90 days	58	63	66	45	75	81	55	61	85	
90 to 180 days	58	52	42	54	43	40	45	41	32	
180 to 365 days	74	58	57	60	53	51	48	40	36	
More than 365 days	49	45	41	42	37	36	33	31	27	
TOTAL	239	218	206	201	208	208	181	173	180	

The number of outstanding (lodged but not determined) DAs this financial year has seen a sustained reduction compared to last year's numbers. The number

8.3 Development Applications - Works in Progress - September 2024

of DAs under assessment but not yet determined has now returned to a more typical or normal level.

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	Following public exhibition of the DA in March, six submissions were received, four by way of objection. A Panel briefing was held on 22 May. A Panel site visit was held on 4 June. The application has been amended under S.37 on 20 September. The DA assessment is now progressing to determination to a NRPP meeting to be scheduled in November.

DA Determination Trend (Financial Year Comparison)

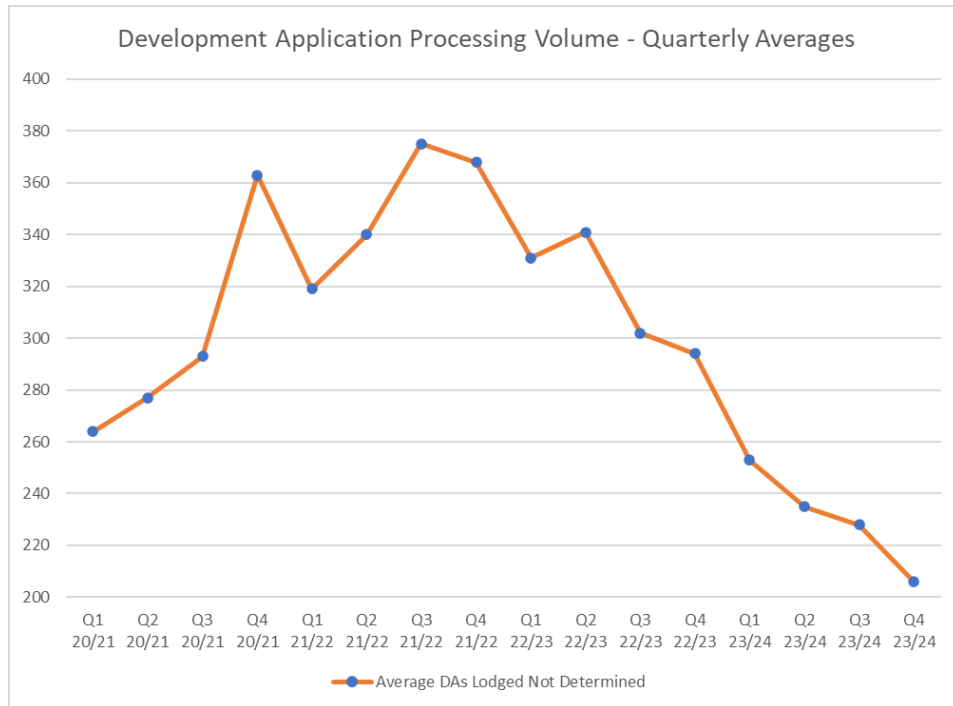
The following chart provides an overview of the volume of development applications lodged but not determined each quarter for the period July 2020 to the end of June 2024.

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 and sustained decline over the last 12 months.

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

8.3 Development Applications - Works in Progress - September 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.

As noted above, it is not uncommon for councils like Ballina Shire to have more than 180 applications under assessment at any one time.

In terms of the types of development applications, a continuing focus is to complete assessments of DAs for alterations and additions to dwelling houses and construction of new dwelling houses and dual occupancies. Another key focus area at present is the determination of applications that have been under assessment for more than 12 months (along with applications approaching this time period).

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 to 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.

8.3 Development Applications - Works in Progress - September 2024

In addition, there is continued growth in development compliance work, building information certificates, swimming pool barrier compliance inspections and certification, essential fire safety programs, provision of planning certificates, address of customer planning and building enquiries and formal pre-DA lodgement meetings.

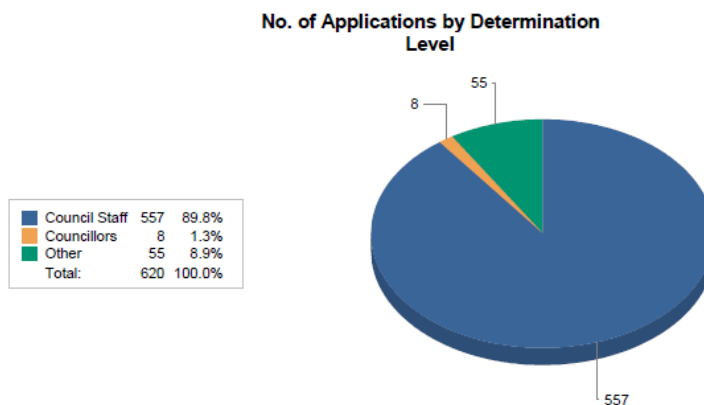
There are also ongoing changes to Council's systems and processes to align with the State Government's planning reform agenda including the operation of the NSW Planning Portal and numerous environmental planning instrument changes.

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.

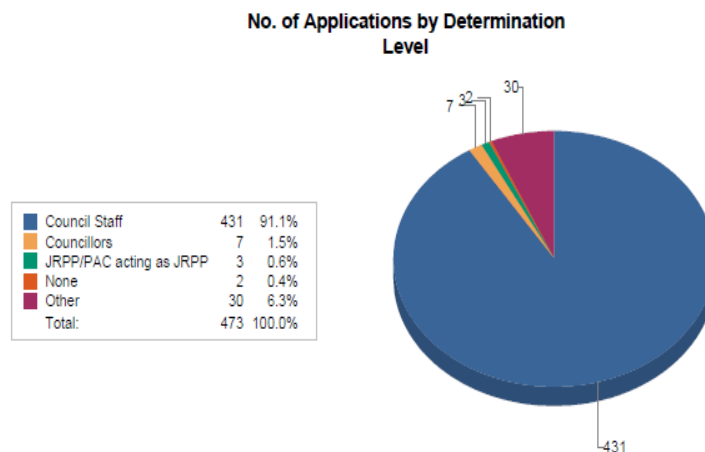
Determination Method

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.

2022/2023

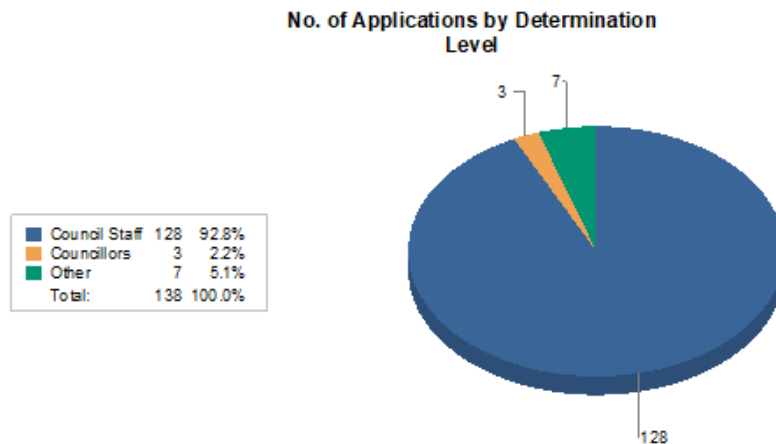


2023/2024



8.3 Development Applications - Works in Progress - September 2024

July 2024 to September 2024



In the July to September 2024 period, 97.8% 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%.

No applications were determined by the Northern Regional Planning Panel during this period.

Determination Outcome

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

In the last financial year 2023/24, 97% of all applications determined by Council have been approved and this percentage of approvals is continuing in the first period of 2024/25.

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 July to September 2024.

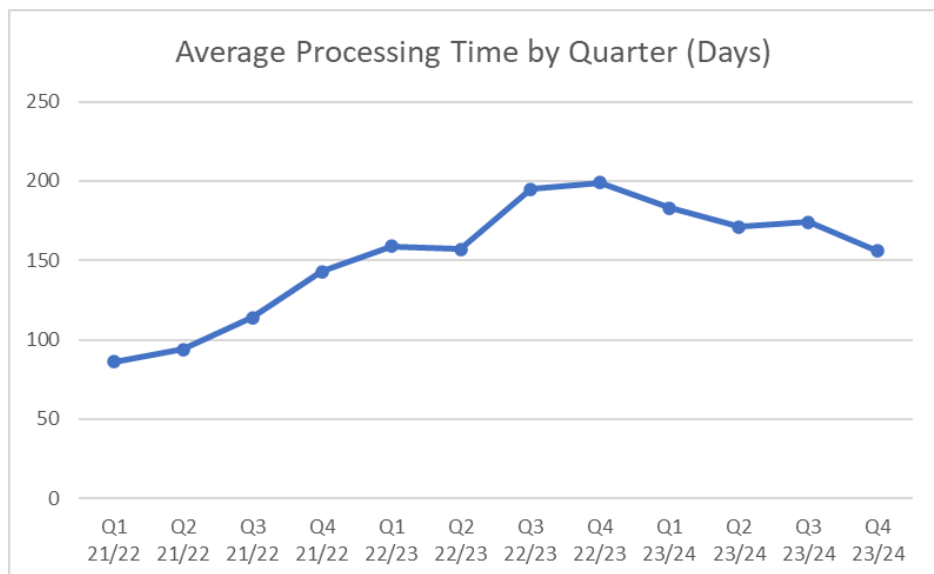
DA No.	Date Approved	Applicant	Proposal and Address	EPI and Land Zoning	Development Standard and Approved Variation	Justification for Variation
2023/374	5/8/2024	Newton Denny Chapelle	Boundary Adjustment to create 1 x 5,595m ² allotment (proposed lot 61) and 1 x	R3 Medium Density Res – BLEP 2012	Clause 4.3 – Height of Buildings (8.5m) and Clause 4.3A Building Height Allowance	Site is mapped with max. BH of 8.5 metres and in accordance with Clause 4.3A the building height is

8.3 Development Applications - Works in Progress - September 2024

			2,971m ² allotment (proposed lot 60), and construction of Tavern and associated earthworks, retaining walls, car parking, landscaping and infrastructure works on proposed lot 61. 6 and 26 Salt Air Circuit, Lennox Head		Proposed building height is 8.6m, being a 1% variation	required to be measured from RL 1.9m AHD as the site is identified on the BH Allowance Map. The site has previously been filled to RL 4.39m AHD and the highest section of the building is measured at RL 10.5m AHD. When measuring the building height from RL 1.9m AHD, the building height exceeds the max. 8.5m building height by 100mm being 8.6m above the 1.9m building height allowance.
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Processing Time

The following indicates average processing times for DAs by month. The chart shows the trend since the 2021/22 financial year 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 and month to month fluctuations.

8.3 Development Applications - Works in Progress - September 2024

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 annual volume of DAs.

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 was 20% lower compared to applications submitted in 2022/23. The first quarter figures for 2024/25 show an increase in the number of submitted DAs relative to last year.

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

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	24/25 YTD
No. of DAs Submitted	861	890	976	1,093	1,020	759	602	185
% Change	N/A	+3.4%	+9.7%	+12%	-7.2%	-25%	-20%	N/A

Residential Subdivisions

There is substantial ongoing work in relation to residential subdivisions. In particular significant planning and engineering resources are continuing to be 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

8.3 Development Applications - Works in Progress - September 2024

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

Over the last three years, Council has received external assistance in the assessment of DAs.

Planning consultants are continuing with development 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 rise in development activity throughout the Shire, the continued demand for housing supply and the difficulty in recruiting suitably qualified and experienced staff to fill existing vacancies.

At the end of June this year, the State Government ceased the Regional Housing Fying Squad program.

Currently, 47 applications 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, consultancy Two Things has been engaged and the review has commenced. This review is anticipated to be undertaken over a 3-4 month period.

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 development assessment related data that the State Government has commenced publishing.

The following link provides information on both the 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.

8.3 Development Applications - Works in Progress - September 2024

RECOMMENDATIONS

1. That Council notes the contents of the report on the status of outstanding development applications for September 2024.
2. That Council notes that there was one variation to development standards of 10% or less approved in the period 1 July 2024 to 30 September 2024.

Attachment(s)

1. Undetermined DAs (Under Assessment 90 Days) - September 2024 [⇒](#)

8.4 Local Environmental Plan Amendments and Planning Proposals - Status

8.4 Local Environmental Plan Amendments and Planning Proposals - Status

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

Background

Council has an ongoing program of processing amendments to the Ballina Local Environmental Plan (LEP) 2012 and where necessary, Ballina LEP 1987 and associated planning proposals. Amendments to the LEP can be initiated by landowners (proponents) and council.

This report provides an update of LEP amendments currently pending.

Key Issues

- Status of rezoning and LEP amendment requests

Discussion

LEP Amendment Requests and Planning Proposals Status

Table 1 provides an overview of the LEP amendment requests and planning proposals currently being considered and processed by Council and those finalised since the last update report was provided.

The term planning proposal refers to the documentation prepared to describe a request to amend the Ballina Local Environmental Plan/s.

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

The different stages in the LEP Amendment / Planning Proposal process are described at the end of Table 1.

8.4 Local Environmental Plan Amendments and Planning Proposals - Status

Table 1: Status of LEP amendment requests and planning proposals

Item	Name and Status	Summary and Notes	Completion Due
21/004	Deferred Matter Integration – Ballina LEP 2012 (Stage 7)	<p>Proposal by Council to integrate certain ‘deferred matters’ into the BLEP 2012. It also seeks to amend clause 41 of BLEP 1987 to limit the temporary use of land to a maximum of 14 days per annum.</p> <p>Public exhibition concluded on 17 March 2023. Assessment of submissions has been completed.</p> <p>At its Ordinary meeting on 29/09/2023 Council resolved to allocate a conservation zone (C zone) only to properties where a written request from the landowner had been received to do so, with all other properties to be zoned the closest equivalent zone to their current BLEP 1987 zone.</p> <p>At its November 2023 Ordinary meeting, Council resolved to amend the exhibited planning proposal and to adopt a staged approach to completing the transitioning of deferred matters from Ballina LEP 1987 to Ballina LEP 2012. Further to the resolution, a request was sent to the DPHI on 29/11/2023 seeking an amended Gateway determination and an extension of time to complete the amended planning proposal.</p> <p>The DPHI advised council on 8/7/2024 that it has made amendments to Ballina LEP 2012 to give effect to the planning proposal. The amendment (Amendment No 55) took effect on 12/7/2024. In making the plan the DPHI determined it would not adopt the Council’s recommended “opt in strategy” for C zones or the staged approach detailed in council’s November 2023 submission.</p> <p>Amendment No 55 applies to 475 lots and has created an additional 1351.5ha of C2 Environmental Conservation and 68.59ha of C3 Environmental Management zoned land. Removed from the amendment were 257 lots which were the subject of landowner objections or submission from government agencies.</p> <p>Following a map checking process Council advised the DPHI on 10/9/2024 that Amendment No 55 contained some inconsistencies and errors and requested they be addressed by the DPHI. The DPHI has not yet advised how it proposes to address these issues. Notwithstanding this, the LEP amendment process under PP 21/004 has now concluded.</p>	Completed

8.4 Local Environmental Plan Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
22/005	Southern Cross Industrial Estate Expansion (Stage 2)	<p>Proposal by Council for the rezoning of land adjacent to the existing Southern Cross Industrial Estate from its current rural zoning to enable a mixture of industrial and employment-type land uses.</p> <p>An updated flood study that takes account of future airport operations has been completed. This matter was the subject of a report to Council's February 2024 Commercial Services Committee. The Commercial Services Committee resolved to:</p> <ol style="list-style-type: none"> 1. <i>Note the contents of the report regarding the land use planning conflicts between the Southern Cross Expansion Precinct Rezoning and the Ballina Byron Gateway Airport Land Use Plan.</i> 2. <i>Authorise the Mayor to make further representations to the State Government and Minister for Planning to identify opportunities that would allow the Southern Cross Expansion Precinct – Rezoning to proceed, to then provide critical employment lands for the Northern Rivers region.</i> <p>Representations were made to the State Government and further to a request by the Minister, Council has submitted additional material for the Minister's consideration. The Minister has requested additional information.</p> <p>For this matter to progress in future a new planning proposal and associated Gateway determination from the DPHI will be required. Given this, PP 22/005 will not be reported on further through this status report.</p>	#
22/006	Tuckombil Quarry Enterprise Zone (Stage 7)	<p>At its 26 May 2022 Ordinary meeting Council adopted recommendations from the 19 May 2022 Finance and Facilities Committee meeting to engage relevant experts to prepare a planning proposal and seek a Gateway Determination for the site rezoning to SP4 Enterprise Zone under the BLEP 2012 and authorise public exhibition of that proposal.</p> <p>The (then) Department of Planning and Environment issued a Gateway determination on 8 August 2023. Public exhibition of the proposal and referral to relevant state agencies of the proposal concluded.</p> <p>The issues raised through the exhibition process were considered by Council at its June 2024 Ordinary meeting. Council resolved to endorse the LEP amendment and submit it to the DPHI for finalisation.</p> <p>The DPHI is currently finalising the amendment.</p>	08/07/2024

8.4 Local Environmental Plan Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
22/008	Johnstone Land (Stage 1)	<p>A proposal to rezone land in Banyan Hill Estate (known as the Johnstone Land) from rural to residential and associated adjustments to the minimum lot size was received in 2022.</p> <p>The proponent was advised that additional information was required including in relation to biodiversity considerations.</p> <p>The current status of this project is unclear. If it proceeds the proponent will be required to submit a revised new proposal.</p> <p>As there has been no new information submitted on this proposal recently, PP 22/008 will not be reported on further through this status report. Any new or updated proposal will be incorporated into future reporting.</p>	#
24/001	Sheather Land (Stage 1)	<p>Proposal to rezone land on the western edge of Banyan Hill Estate to enable residential subdivision.</p> <p>Following several meetings and requests for additional information the proponent is currently preparing a planning proposal and it is expected to be submitted by the end of 2024.</p>	#
22/001	Additional Permitted Use for a 'gymnastics focused recreational facility', Racecourse Road, Ballina (Stage 2a)	<p>Proposal to amend Schedule 1 of the Ballina LEP 2012 (Additional Permitted Uses) to enable development for the purpose of a <i>gymnastics focused recreational facility</i> at 34 Racecourse Road, Ballina. Council considered the same proposal at its Ordinary meeting on 23 February 2023 and resolved that no further action be taken.</p> <p>The planning proposal requested reconsideration of the previous decision.</p> <p>At the June 2024 Ordinary meeting, Council resolved to not support the planning proposal and notified the proponent accordingly.</p> <p>The proponent subsequently applied to the DPHI for a rezoning review, which will be considered at a future meeting of the Northern Joint Regional Planning Panel.</p>	#
24/002	General amendments to the LEP (Stage 3)	<p>This is a Council initiated LEP amendment package that involves a review of various aspects of the LEP in response to development proposals, operational considerations, and Court decisions.</p> <p>The proposed amendments were endorsed at the 22 August 2024 Ordinary Council meeting for the purposes of seeking a Gateway determination from DPHI.</p> <p>The DPHI issued the Gateway determination on 26 August 2024.</p> <p>Public exhibition of the proposal will commence during October 2024.</p>	26 May 2025

8.4 Local Environmental Plan Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
24/004	Aureus Village Rezoning Stage 2	<p>Proposal to rezone part of Aureus Village (neighbourhood commercial centre site) at 21 Aureus Boulevard, Skennars Head (Lot 346 DP1271483) from the existing zoning of E1 Local Centre to a zoning of R3 Medium Density Residential.</p> <p>The proposal was submitted on 3 October 2024 requesting Council's endorsement to proceed to a Gateway determination. Staff have commenced the assessment process, and a report on the proposal will be presented to the November 2024 Ordinary meeting of Council.</p>	#
<p>LEP Amendment Request/Planning Proposal Processing Stages</p> <ol style="list-style-type: none"> 1. Initial Concept - Proponent submits initial amendment concept for review and reporting to the Council. 2. Planning Proposal - Preparation of a planning proposal for the Council's consideration (if the initial concept is supported by the Council). 2a. Rezoning review – if Council resolves not to support a planning proposal the proponent can request a rezoning review. The review is carried out by the regional planning panel, which will determine whether or not to recommend to the Minister that a proposal should be submitted for a Gateway determination. 3. Gateway Determination - DPHI determination as to whether the planning proposal may proceed (if the Council resolves to submit the planning proposal for determination). 4. Study Preparation - Relevant technical information to enable complete assessment compiled and considered. This step may also involve pre-exhibition public authority consultation. 5. Community Consultation - Planning proposal and associated technical assessment material exhibited for public comment. 5a. Public Hearing - Public Hearing held, where required. 6. Submissions Assessment and Council Decision - Reporting of community consultation outcomes and Council decision regarding finalisation of the planning proposal. 7. Finalisation - DPHI finalisation (or Council finalisation under delegation) of the LEP amendment based on the planning proposal. Note: the Minister for Planning may finalise, alter or terminate the amendment. <p># Denotes proposal number and due date subject to Gateway determination.</p> <p><i>The completion due date is a date determined by the Department of Planning, Housing and Infrastructure.</i></p>			

Proposed LEP Amendment Requests

The following planning proposal is anticipated:

Cumalum Precinct B (CURA B) – following public exhibition and consideration of submissions, Council resolved at the 22 August 2024 Ordinary meeting to adopt amendments to the Development Control Plan (DCP) applying to the land known as CURA B at Kinvara, adjacent to Ross Lane. The amendments included an updated Structure Plan.

Consistent with the adopted DCP Structure Plan, a planning proposal to amend the LEP is required to relocate the existing commercial centre zone. It is anticipated this will be received in the short term.

Delivery Program Strategy / Operational Plan Activity

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

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

8.4 Local Environmental Plan Amendments and Planning Proposals - Status

Community Engagement Strategy

Community engagement in accordance with Council's Community Participation Plan and Gateway determinations issued by the DPHI has been, or will be, undertaken in relation to individual planning proposals.

Financial / Risk Considerations

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

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

Options

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

RECOMMENDATIONS

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

Attachment(s)

Nil

9.1 Oath or Affirmation of Office by Councillors

9. Corporate and Community Division Reports

9.1 Oath or Affirmation of Office by Councillors

Background

Section 233A of the Local Government Act 1993 prescribes that “A councillor must take an oath of office or make an affirmation of office at or before the first meeting of the council after the councillor is elected.”

The wording of the Oath or Affirmation is as follows:

Oath

I [name of councillor] swear that I will undertake the duties of the office of councillor in the best interests of the people of the Ballina Shire and the Ballina Shire Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Affirmation

I [name of councillor] solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of the Ballina Shire and the Ballina Shire Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Councillors are scheduled to complete the Oath or Affirmation on Sunday 20 October 2024, which is after the date this report was completed.

Confirmation will be provided at this meeting, which will then allow the following recommendation to be adopted.

RECOMMENDATION

That Council notes that the General Manager has confirmed that all Councillors have undertaken the Oath of Office or Affirmation of Office prior to the first Ordinary meeting of the new Council held Thursday 24 October 2024.

Attachment(s)

Nil

9.2 Deputy Mayor - Election

9.2 Deputy Mayor - Election

Delivery Program

Governance

Objective

To determine whether Council wishes to appoint a Deputy Mayor and if so, how that position is to be elected.

Background

Section 231 of the Local Government Act 1993 states as follows:

- (1) *The councillors may elect a person from among their number to be the deputy mayor.*
- (2) *The person may be elected for the mayoral term or a shorter term.*
- (3) *The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*
- (4) *The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.*

It had traditionally been normal practice for Council to elect the Deputy Mayor for one year although Section 231(2) allows the election to be for any period up to the entire term of Council.

During the last term of Council, which was for two years and nine months, the Deputy Mayor was elected for the period from January 2022 to September 2023 and then for the period September 2023 to September 2024.

The Deputy Mayor can be paid an allowance for such time as the Deputy Mayor acts in the office of the Mayor.

The Office of Local Government has advised that such an allowance cannot be established on an annual basis and paid as an annual figure. It must reflect actual time acting as the Mayor.

This means the Deputy Mayor will only receive an allowance if the Mayor is on a period of extended leave and Council has resolved to pay an allowance.

Council has not previously resolved an allowance, as there has been no extended leave from the Mayor.

Key Issues

- To determine whether Council wishes to appoint a Deputy Mayor
- To determine the term
- To determine the method of voting

9.2 Deputy Mayor - Election

Discussion

An election must be held if more than one nomination is received. The General Manager is the returning officer in the case of an election.

Nominations for the office of Deputy Mayor are to be submitted in writing to the General Manager, signed by the nominee and at least one other Councillor, prior to this report being discussed at the Ordinary meeting.

The nomination is not valid unless the nominee has indicated consent to the nomination in writing.

Copies of the nomination forms are attached under separate cover.

The election of Deputy Mayor must be undertaken in accordance with Section 394, and Schedule 7 of the Local Government (General) Regulation 2021, with clause 3 of Schedule 7 stating as follows:

- (1) *If only one councillor is nominated, that councillor is elected.*
- (2) *If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.*
- (3) *The election is to be held at the council meeting at which the council resolves on the method of voting.*
- (4) *In this section:*
ballot *has its normal meaning of secret ballot.*
open voting *means voting by a show of hands or similar means.*

In accordance with (2) and (3), where there is more than one councillor that has been nominated, the council must determine by resolution, the method of voting for the position of deputy mayor, by one of the following methods:

- Open voting - show of hands.
- Ordinary ballot - a secret ballot (place an "X" against the candidate of their choice). This process is repeated until a majority of votes is secured.
- Preferential ballot – i.e. place 1,2, 3 etc against each candidate.

Delivery Program Strategy / Operational Plan Activity

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

Community Engagement Strategy

Not applicable.

Financial / Risk Considerations

There is no obligation for Council to elect a Deputy Mayor, however the preference is to elect a Deputy Mayor, as this helps to fill the role of Mayor if the Mayor is unable to attend a meeting.

9.2 Deputy Mayor - Election

Options

The options are to have, or not have, a Deputy Mayor.

It is recommended that Council appoint a Deputy Mayor, as the position can provide support to the Mayor in attending local community events.

In respect to term, the options are one, two, three or four years.

One year allows the Deputy Mayor role to be potentially shared between Councillors to provide experience, whereas two or more years provides a level of consistency in the role.

The recommendation is for two years based on the preferred period during the last term of Council.

In respect to voting, if Council resolves to have a secret ballot (i.e. preferential or ordinary) and any Councillors attend this meeting remotely, it will be a matter for the returning officer (the General Manager) to collect their votes.

The preferred option for this will be to have Councillor(s) email their vote (or text message) to the returning officer, which does result in the loss of some confidentiality.

Ordinary ballot has been the preferred method in recent years and the recommendation is consistent with that approach.

RECOMMENDATIONS

1. That Council elect a Deputy Mayor for the two-year period to September 2026
2. That the method of voting for the election of Deputy Mayor be by way of ordinary (secret) ballot.
3. That the number of votes at the ballot be revealed at the meeting and that the General Manager, following the meeting, destroy the ballot papers.

Attachment(s)

1. Nomination Form - Deputy Mayor 2024 [↗](#)

9.3 Local Government Elections - Casual Vacancies

9.3 Local Government Elections - Casual Vacancies

Section Governance

Objective To determine if Council wishes to have the option of a countback in the event of a casual vacancy occurring in Council during the next 18 months.

Background

Local Government elections are held every four years, with some exceptions, particularly the September 2020 election, which was postponed twice due to the COVID-19 pandemic.

If a casual vacancy occurs following the election, such as a Councillor resigns, passes away or is dismissed from office, depending on when this occurs within the election cycle, a by-election or countback of votes can occur to fill the vacancy.

A by-election is an election in a single local government area, or ward, that takes place to fill the council vacancy.

A countback can occur if the vacancy arises within the first 18 months of the last local government ordinary election.

A 'countback' uses the countback of votes cast at the last election, in this case, the election on 14 September 2024. This is a relatively new option available to councils to assist in reducing the cost of holding a by-election.

To exercise the option of using a countback, Council must adopt the appropriate resolution at the first meeting after the ordinary election.

This report provides that opportunity for Council.

Key Issues

- Cost of elections

Discussion

Council has the option to use the countback of votes cast at the election to fill casual vacancies occurring in the office of councillors, in the first 18 months after the election.

Where councils do not resolve to fill vacancies using a countback at their first meeting after the election, the council will be required to fill vacancies using a by-election in accordance with Section 291A of the Local Government Act 1993.

The election was held on the 14 September 2024, which means the 18-month period expires on 14 March 2026.

9.3 Local Government Elections - Casual Vacancies

Should Council resolve to fill vacancies using a countback method, the General Manager is required to notify NSW Electoral Commissioner of the decision within seven days of the resolution.

Delivery Program Strategy / Operational Plan Activity

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

Community Consultation Policy

The NSW Electoral Commission is the responsible authority informing councils and the public in relation to Local Government elections.

Financial / Risk Considerations

The cost of retaining the NSW Electoral Commission to administer Local Government elections is approximately \$320,000.

The cost of a by-election is a significant portion of the cost of running an election, as many of the fixed costs still need to be incurred (Returning Officer, Pre-poll voting, advertising etc).

The countback method allows Council to avoid additional costs of a by-election within the first 18 months of the term.

Options

The options are to adopt the countback of votes cast method to fill casual vacancies occurring within 18 months of the local government ordinary election or to determine that any vacancies will be filled using a by-election.

Based on the significant cost of a by-election, the appropriate recommendation based on responsible fiscal management, is to adopt the countback method to fill casual vacancies, with the wording based on advice from the Office of Local Government and NSW Electoral Commission.

RECOMMENDATION

That Council, pursuant to section 291 A(1)(b) of the Local Government Act 1993, Ballina Shire Council declares that casual vacancies occurring in the office of a councillor within 18 months after the last ordinary election of councillors for the Council on 14 September 2024 are to be filled by a countback of votes cast at that election for the office in accordance with section 291A of the Act and directs the General Manager to notify the NSW Electoral Commissioner of the Council's decision within seven days of the decision.

Attachment(s)

Nil

9.4 Disclosure of Interest Returns

9.4 Disclosure of Interest Returns

Delivery Program

Governance

Objective

To comply with the provisions of the Code of Conduct relating to the tabling of disclosure of interest returns.

Background

All NSW councils must adopt a Code of Conduct, with the Office of Local Government providing a Model Code, which has been adopted by Council. The Code sets a minimum standard of conduct for council officials, including councillors and staff.

Clause 4.21 of the Code of Conduct requires councillors and designated persons to lodge with the General Manager a return in the form set out in schedule 2 of the Code, disclosing the councillor's or designated person's interests as specified in schedule 1 of the Code within three months after:

- (a) becoming a councillor or designated person, and
- (b) 30 June of each year, and
- (c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).

Clause 4.25 then requires the General Manager to table those returns at the first meeting of the council after the last day the return is required to be lodged. This report complies with the Clause 4.21 (b) for the period 1 July 2023 to 30 June 2024.

A link to the Code of Conduct on Council's website is as follows.

[Code of Conduct \(nsw.gov.au\)](https://www.nsw.gov.au/code-of-conduct)

Key Issues

- Compliance with the Code of Conduct

Discussion

Disclosure of interest returns are to be tabled by councillors and designated persons.

Clause 4.8 of the Code of Conduct defines designated persons as:

- (a) the General Manager
- (b) other senior staff of the council for the purposes of section 332 of the Local Government Act

9.4 Disclosure of Interest Returns

- (c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- (d) a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

To manage the determination of designated positions an internal procedure has been adopted by staff to ensure that the following positions complete the returns:

- General Manager
- Directors

The independent members of Council's Audit Risk and Improvement Committee are designated persons, and their disclosures of interest are also tabled for 2023/24.

The completed returns for 2023/24 and the register are tabled at this Ordinary meeting. Newly elected Councillors will need to complete the forms by 14 December 2024.

Delivery Program Strategy / Operational Plan Activity

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

Community Engagement Strategy

This report is provided for the information of the public.

Financial / Risk Considerations

Council must comply with the Local Government Act 1993.

Options

This report is for noting.

RECOMMENDATION

That Council notes the contents of the report on the disclosure of interest returns for the period 1 July 2023 to 30 June 2024.

Attachment(s)

Nil

9.5 Investment Summary - August and September 2024

9.5 Investment Summary - August and September 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 31 August and 30 September 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 August and September 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: <https://ballina.nsw.gov.au/page.asp?f=RES-GFT-21-04-76>

The total balance of investments, as at 30 September 2024, was \$96.9m, compared to a balance of \$98.9m as at 31 August 2024 and a balance of \$93.9m as at 31 July 2024.

Council's investments, as at 30 September 2024, were invested at a weighted average interest rate of 5.254%, which was 0.830% higher than the September average 90 Day Bank Bill Index (BBSW) of 4.424%.

The balance of Council's Commonwealth Bank business account, as at 30 September 2024 was \$12,414,376, which compares to a balance of \$12,087,835 as at 31 August 2024 and \$13,773,590 at 31 July 2024.

9.5 Investment Summary - August and September 2024

Total combined cash and investments, as at 30 September 2024 was \$109,314,376 compared to a balance of \$110,987,835 as at 31 August 2024 and \$107,673,590 as at 31 July 2024.

The net increase of \$3.3m in cash and investments from July to August is the result of first quarter rates instalments received at the end of August, offset by regular creditor payments and loan payments made during the month.

The net decrease of \$1.7m in cash and investments from August to September, is the result of regular creditor payments and loan payments made during the month offset by grant funds received from Transport for NSW of \$1.18m, late payments of rates instalments received in early September and water rates instalments due at the end of September.

NSW TCorp's monthly Economic Commentary report for September 2024 can be viewed using the following link: [Monthly economic report – September 2024 \(nsw.gov.au\)](https://www.nsw.gov.au/monthly-economic-report-september-2024)

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 2024.

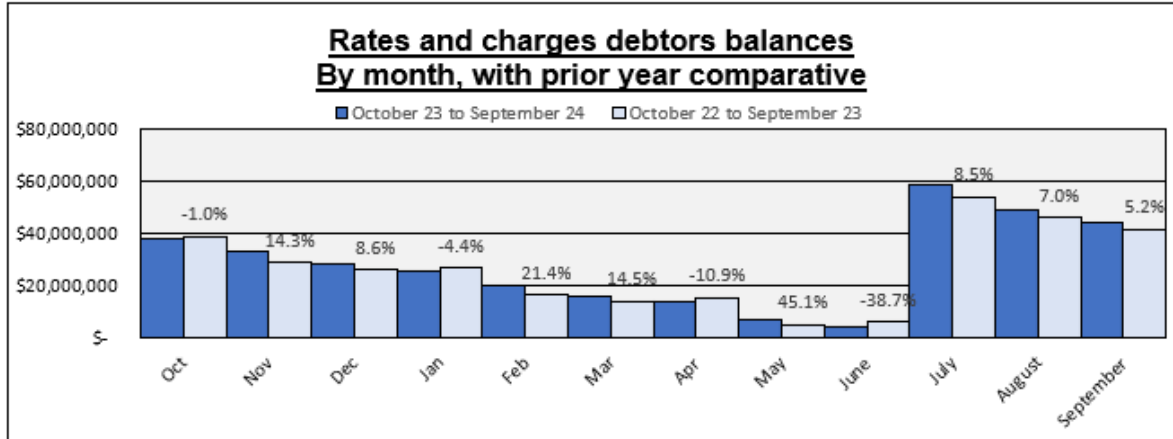
Reserve Name	Restriction	% Portfolio
Wastewater (incl developer contributions)	External	24.18%
Water (incl developer contributions)	External	15.66%
Section 7.11 Developer Contributions	External	18.74%
Domestic Waste Management	External	1.81%
Bonds and Deposits	External	3.07%
Specific Purpose Unexpended Grants	External	8.17%
Commercial Properties	Internal	1.16%
Carry Forward Works	Internal	3.25%
Bypass Maintenance	Internal	3.32%
Management Plans / Studies	Internal	1.03%
Airport	Internal	2.02%
Landfill and Resource Management	Internal	0.09%
Employee Leave Entitlements	Internal	2.65%
Quarries	Internal	0.56%
Property	Internal	1.31%
Plant and Vehicle Replacement	Internal	0.20%
Road Works	Internal	0.94%
Open Spaces	Internal	1.17%
Miscellaneous Internal Reserves	Internal	3.14%
Community Facilities	Internal	0.71%
Financial Assistance Grant in Advance	Internal	4.53%
Unrestricted		2.29%
Total		100.00%

9.5 Investment Summary - August and September 2024

Debtors

As per the following chart, the balance, as at 30 September 2024, was 5.2% higher than 30 September 2023. This increase is predominantly due to the rate pegging increase for 2024/25 of 4.6%, charge increases and growth in the rating base, alongside balances outstanding increasing.

Staff continue to monitor balances and implement timely debt recovery procedures.



A. Investments by Institution

Funds Invested With	Fossil Fuel Free / Green	Rating S&P	31 August \$'000	30 September \$'000	Quota %	% of Total
AMP Bank	No	BBB+	10,000	10,000	20%	10.32%
Australian Unity	Yes	BBB+	3,000	3,000	20%	3.10%
Auswide Bank	Yes	BBB	3,000	3,000	20%	3.10%
Bank of Queensland	Yes	A-	6,000	4,000	20%	4.13%
BankVic	n/a	BBB+	5,000	5,000	20%	5.16%
Bendigo & Adelaide Bank	Yes	BBB+	1,000	1,000	20%	1.03%
Beyond Bank	Yes	BBB+	2,000	2,000	20%	2.06%
Commonwealth Bank	No	AA-	1,000	1,000	20%	1.03%
Defence Bank Ltd	n/a	BBB+	3,000	3,000	20%	3.10%
ING Bank (Australia) Ltd	No	A	17,000	17,000	20%	17.54%
G & C Mutual	Yes	BBB+	-	2,000	20%	2.06%
Macquarie Bank	No	A+	1,600	1,600	20%	1.65%
MyState Bank Ltd	Yes	BBB+	4,000	4,000	20%	4.13%
National Australia Bank	No	AA-	16,000	14,000	20%	14.45%
Newcastle Greater Mutual Group Ltd	Yes	BBB+	1,000	1,000	20%	1.03%
Rabobank Australia Ltd	No	A+	8,000	8,000	20%	8.26%
Suncorp Limited	Yes	A+	15,300	15,300	20%	15.79%
Westpac Bank Corp	No	AA-	2,000	2,000	20%	2.06%
Total			98,900	96,900		100.0%

Credit Rating Summary as per the Investment Policy	Maximum Allowed		Value 31 August \$'000	Value 30 September \$'000	% 31 August	% 30 September
	%	Value				
A- or Higher	100%	96,900	66,900	62,900	67.6%	64.9%
BBB	60%	58,140	32,000	34,000	32.4%	35.1%
Total			98,900	96,900	100.0%	100.0%

9.5 Investment Summary - August and September 2024

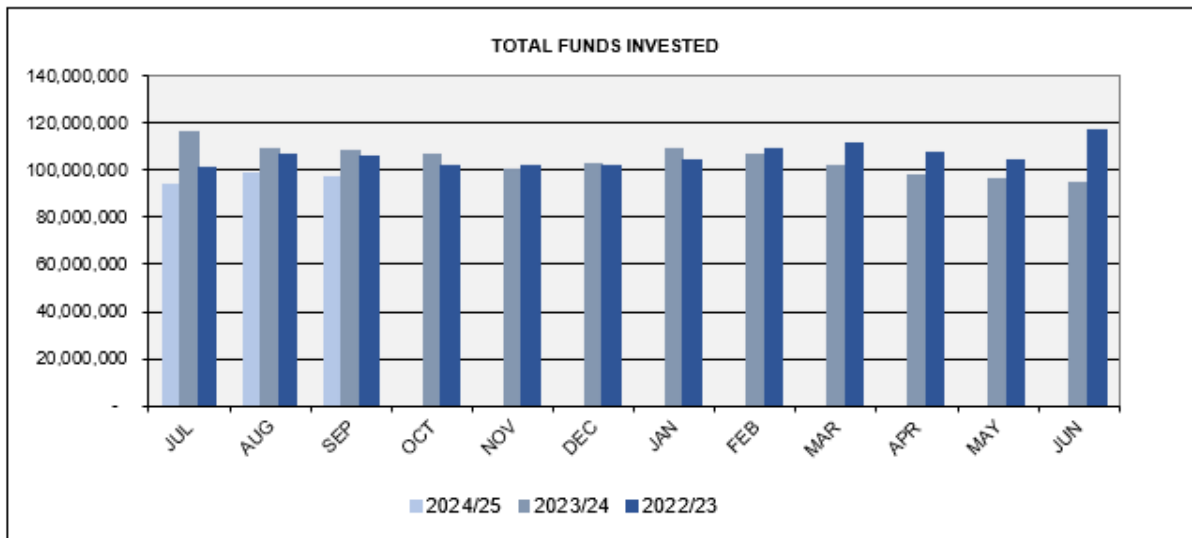
Liquidity Risk Parameters as per the Investment Policy	Maximum Allowed		Value 31 August \$'000	Value 30 September \$'000	%	%
	%	Value				
Term equal to 1 year or less	100%	96,900	89,000	87,000	90.0%	89.8%
Term > 1 year and < 3 years	40%	38,760	-	-	-	-
Term > 3 years	20%	19,380	9,900	9,900	10.0%	10.2%
Total			98,900	96,900	100.0%	100.0%

B. Fossil Fuel Free and Green Investments

Environmental Classification	31 August		30 September	
	(\$'000)	(%)	(\$'000)	(%)
Fossil Fuel Aligned and Non-Green Investments	45,600	46.1	43,600	45.0
Fossil Fuel Free Investments	45,300	45.8	45,300	46.7
Green Investments	0	0.0	0	0.0
Not Classified	8,000	8.1	8,000	8.3
Total	98,900	100.0	96,900	100.0

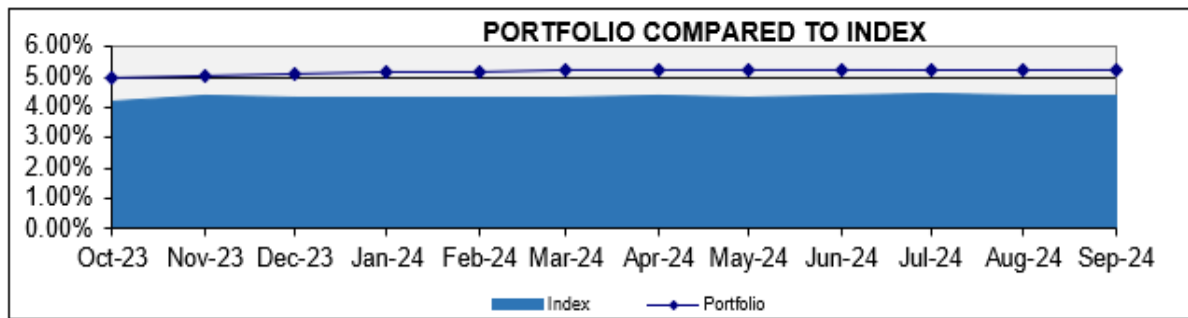
In September 2024, eight investment matured totalling \$13.6m. Six of these investments were held with a non-fossil fuel aligned institution (\$10.0m). Seven new investments totalling \$11.6m were placed. Based on the available returns offered on the days that the investments were taken, six of the investments were with a non-fossil fuel aligned institution with a value of \$10.0m.

Monthly Comparison of Total Funds Invested

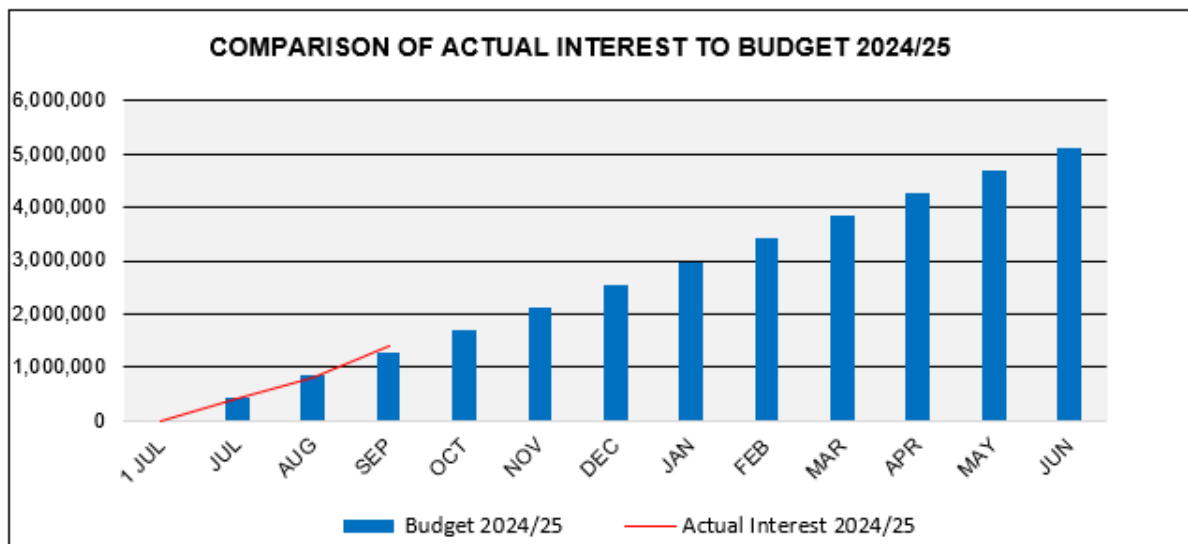


9.5 Investment Summary - August and September 2024

C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



E. Investments held as of 31 August 2024 and 30 September 2024

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	31 August \$'000	30 September \$'000
24/02/21	Suncorp-Metway Limited	FRN	4.80%	24/02/26	1,300	1,300
04/03/21	Newcastle Greater Mutual Group Ltd	FRN	5.04%	04/03/26	1,000	1,000
18/06/21	Bendigo & Adelaide Bank	FRN	5.07%	18/06/26	1,000	1,000
29/06/23	AMP Bank	FRN	6.08%	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	5.24%	20/02/29	2,000	2,000
19/03/24	Suncorp-Metway Limited	FRN	5.40%	19/03/29	1,000	1,000
22/08/24	Commonwealth Bank of Australia	FRN	5.24%	22/08/29	1,000	1,000
27/09/23	National Australia Bank	TD	5.32%	23/09/24	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

9.5 Investment Summary - August and September 2024

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	31 August \$'000	30 September \$'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
23/02/24	Bank of Queensland	TD	5.05%	04/09/24	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	-
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	2,000
27/06/24	National Australia Bank	TD	5.50%	24/06/25	4,000	4,000
10/07/24	Suncorp-Metway Limited	TD	5.45%	08/07/25	3,000	3,000
31/07/24	Rabobank Australia Ltd.	TD	5.35%	31/07/25	3,000	3,000
13/08/24	AMP Bank	TD	5.20%	13/08/24	4,000	4,000
28/08/24	Suncorp-Metway Limited	TD	5.07%	04/03/25	6,000	6,000
28/08/24	Rabobank Australia Ltd.	TD	5.00%	03/06/25	5,000	5,000
04/09/24	Bank of Queensland	TD	4.85%	04/02/25	-	4,000
11/09/24	G&C Mutual Bank	TD	5.00%	03/09/25	-	2,000
	Total				98,900	96,900
	TD=Term Deposit; FRN=Floating Rate Note					

RECOMMENDATION

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

Attachment(s)

Nil

9.6 Code of Conduct Statistics - Annual Reporting

9.6 Code of Conduct Statistics - Annual Reporting

Section Governance

Objective To comply with the annual reporting requirements of the Code of Conduct.

Background

The Code of Conduct is prescribed under the Local Government Act, and it is a requirement of all NSW councils to adopt a code of conduct that incorporates provisions of the Office of Local Government's Model Code of Conduct.

The Code of Conduct sets a minimum standard of conduct for council officials, and councillors and members of staff must comply.

Councils are required to report on Code of Conduct complaint statistics within three months of the end of September each year, as per clauses 11.1 and 11.2 of the Office of Local Government's (OLG) Procedures for the Administration of the Model Code of Conduct, with the report forwarded to the OLG.

Key Issues

- Complaint statistics

Discussion

The reporting period is 1 September 2023 to 31 August 2024. The following table is a snapshot of the full report for the last two reporting periods. A copy of the full report, as lodged with the OLG, is included as Attachment 1.

Number of Code of Conduct Complaints	2022/23	2023/24
Number of complaints about councillors and GM <i>received</i> in the period	1	15
Number of complaints about councillors and GM <i>finalised</i> in the period	1	15
Overview of Complaints		
Complaints finalised at the outset by the GM or Mayor	0	1
Complaints referred to the (OLG)	0	1
Complaints referred to a conduct reviewer	1	13
Complaints <i>finalised at preliminary assessment</i> by a conduct reviewer	1	13
Number of <i>finalised</i> complaints investigated by a conduct reviewer	0	0
Cost of dealing with complaints within the period, including staff costs	\$2,357	\$45,188

9.6 Code of Conduct Statistics - Annual Reporting

Preliminary Assessment Statistics		
Take no action (clause 6.13(a))	0	10
Resolve by alternate strategies (clause 6.13(b))	1	2
Refer the matter back to the GM or Mayor for resolution by alternate strategies (clause 6.13(c))	0	1
To investigate the matter (clause 6.13(e))	0	0

Community Engagement Strategy

This report is provided for the information of the public.

Financial / Risk Considerations

Compliance with the provisions of the OLG Model Code of Conduct.

Options

This report is for information purposes.

RECOMMENDATION

That Council notes the contents of the Code of Conduct statistics report for the 2023/24 reporting period.

Attachment(s)

1. 2023/24 - Code of Conduct Statistics - Office of Local Government [⇒](#)

9.7 Flat Rock Tent Park - Fees and Charges - 2025/26

9.7 Flat Rock Tent Park - Fees and Charges - 2025/26

Section Commercial Services

Objective To seek Council's approval to exhibit and adopt the fees and charges for the Council operated tent park for the period 1 February 2025 to 31 January 2026

Background

The NSW Local Government Act 1993 requires councils to publicly exhibit and adopt their fees and charges prior to implementation.

Nearly all Council's fees are set each June, as part of the adoption of the Delivery Program and Operational Plan, and to align with the beginning of a new financial year.

However, Flat Rock Tent Park fees are set for the twelve months from 1 February each year, to enable returning Christmas holiday guests to be aware of any proposed changes to the park's fees for the following year.

The report seeks Council approval to exhibit the draft fees and charges for the period 1 February 2025 to 31 January 2026.

Key Issues

- Variation in fees
- Changes to cancellation policy

Discussion

The occupancy rates and revenue for the park are monitored on a regular basis to ensure that it is financially sustainable and meeting customer expectations.

The following table provides a summary of the revenue collected as per Council's financial records:

Year	Income (\$)
2023/24	560,155
2022/23	541,975
2021/22	356,915
2020/21	439,160
2019/20	338,400

The proposed fees for 2025/26 consider factors such as park facilities, feedback from the Park Managers and guests, industry comparisons with similar parks on the NSW North Coast, and the latest Consumer Price Index (CPI).

9.7 Flat Rock Tent Park - Fees and Charges - 2025/26

There are a limited number of parks in the area that provide solely unpowered sites with limited facilities. Flat Rock Tent Park is a somewhat unique opportunity for campers.

A copy of the proposed fees, charges and booking/cancellation policy is included as Attachment 1.

The key fee changes are set out as follows.

Current Fees to Jan 2025	Off Peak	Shoulder	Peak
Standard site (based on 2 people)	\$41.00	\$47.00	\$54.00
Beachfront premium site (based on 2 people) sites 34-43	\$46.00	\$52.00	\$62.00
Adult (extra) 18 years and over	\$18.00	\$18.00	\$18.00
Child (4-17 years incl)	\$10.00	\$10.00	\$10.00

Proposed Fees to Jan 2026	Off Peak	Shoulder	Peak
Standard site (based on 2 people)	\$45.00	\$51.00	\$58.00
Beachfront premium site (based on 2 people) *	\$50.00	\$56.00	\$66.00
Adult (extra) 18 years and over	\$18.00	\$18.00	\$18.00
Child (4-17 years incl)	\$10.00	\$10.00	\$10.00

The proposed changes to the booking/cancellation policy are:

- A reduction to the minimum night stay for school holidays (shoulder season rates). This is currently seven nights. The proposed change is to four nights based on feedback from the park manager and a trend for camping holidays to be for shorter periods.
- Update the Cancellation / Administration Fee. This is equivalent to a one-night booking, which is proposed to be \$45.00 (off-peak) or \$50.00 (premium sites off-peak) to reflect the 2025/26 price increase.

Delivery Program Strategy / Operational Plan Activity

PE2.3b - Ensure on-going profitability of Flat Rock Tent Park

Community Engagement Strategy

The proposed draft fees and charges and booking / cancellation policy will be placed on public exhibition for a minimum period of 28 days, seeking community feedback.

This matter will be reported back to Council.

Financial / Risk Considerations

The proposed change to the fees is a minimal increase based on industry comparison and input from park managers.

Options

The options are to either adopt or amend the proposed fees for exhibition.

The recommendation is to exhibit the proposed fees and booking / cancellation policy as the changes are consistent with industry trends and competitors.

RECOMMENDATION

1. That Council authorises the public exhibition of the draft Flat Rock Tent Park fees and charges for 1 February 2025 to 31 January 2026, as per Attachment 1 to this report. Following the exhibition period, this matter will be reported back to Council.
2. That Council endorse the Flat Rock Tent Park booking and cancellation policy for 2025/26, subject to the updated fees and charges being adopted.

Attachment(s)

1. Flat Rock Tent Park - Draft Fees and Charges for 2025/26 [⇒](#)
2. Flat Rock Tent Park - Draft Booking and Cancellation Policy for 2025/26 [⇒](#)

9.8 Annual Financial Statements - 2023/24

Delivery Program

Financial Services

Objective

To obtain Council approval to exhibit the 2023/24 Financial Statements for public comment, and to sign the certified statements for both the General Purpose and Special Purpose Statements.

Background

Council must prepare financial statements for each financial year that are in accordance with:

- The Local Government Act 1993 (as amended) and Regulations
- The Australian Accounting Standards and professional pronouncements
- The Local Government Code of Accounting Practice and Financial Reporting
- NSW Government Policy Statement - Application of National Competition Policy to Local Government
- Office of Local Government guidelines - Pricing and Costing for Council Businesses: A Guide to Competitive Neutrality

Once completed, and audited, Council must resolve to exhibit the statements for public comment. Council must then consider the statements again (typically at the November Ordinary meeting), together with submissions, and resolve to adopt the statements.

This report seeks Council approval to exhibit the annual financial statements.

Key Issues

- Financial results
- Statements present a true and fair picture of Council's financial position
- Audit, Risk and Improvement Committee (ARIC)

Discussion

The Annual Financial Statements for the year ended 30 June 2024 have been completed and audited. A copy of the statements, together with the Auditor's Reports, are included as per Attachment 1 to this report.

Council's Audit, Risk and Improvement Committee (ARIC) held a meeting on 15 October 2024, to which Councillors were invited. Council management and the external auditors were also present, allowing ARIC members and Councillors to raise questions.

ARIC resolved to endorse the 2023/24 Financial Statements and Special Schedules for presentation to Council at this meeting.

The Auditor intends to issue an 'unqualified report', which means that they are of the opinion that the financial reports represent a fair and accurate assessment of Council's financial position.

The purpose of this report is to obtain Council's approval for the exhibition of the financial statements.

Council must also provide approval for the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer (the Manager Financial Services) to sign the statements confirming that, in the opinion of Council, the financial statements are fair and accurate.

Copies of the statements to be signed are included as Attachment 2.

Once the financial statements are approved, the statements must be exhibited for public comment. The statements must then be adopted at a meeting of Council, not more than five weeks after the meeting where approval was provided to exhibit.

Subject to Council approval, the statements will be exhibited and then presented, with any public submissions, to the November Ordinary meeting.

The documents enclosed with the business paper can be broken down into:

Attachment 1 – Draft Annual Financial Statements 2023/24

The statements consist of four Parts:

Part A – Auditor's Report on the Conduct of the Audit

This is the draft (long form) audit report on the general-purpose financial statements, noting an intention to issue an unmodified audit opinion.

Part B – General Purpose Financial Statements

The statements provide the consolidated operating result for 2023/24 and the consolidated financial position of Council, as at 30 June 2024.

The notes included with the statements provide details on income and expenditure, assets and liabilities. The notes also highlight the cash position of Council and identify which funds are externally restricted.

Part C – Special Purpose Financial Statements

These statements are prepared because of National Competition Policy and relate to those aspects of Council's operations, that are business activities.

Part D – Special Schedules

These schedules are prepared primarily for the Australian Bureau of Statistics and are used to gather information for comparative purposes.

Attachment 2 – Statements by Councillors and Management

These statements are to be signed by the Mayor, a Councillor, General Manager and the Responsible Accounting Officer. They are an extract from the draft General Purpose and Special Purpose Financial Statements.

Attachment 3 – Report of the Audit, Risk and Improvement Committee

In accordance with the new ARIC guidelines from the Office of Local Government, Council's Audit, Risk and Improvement Committee (ARIC) now provide a report on the operations of the ARIC for the financial year.

Attachment 4 – Internal Audit and Risk Management Attestation Statement

In accordance with the same guidelines, the General Manager provides an attestation in relation to compliance of the Audit, Risk and Improvement Committee, Council's risk management framework and internal audit function.

Attachment 5 – Overview of 2023/24 Financial Statements

This report, prepared by Council staff, provides an analysis of Council's results for the 2023/24 financial year and the financial position as at 30 June 2024.

This report helps with analysing the results on a Fund basis (General, Water and Wastewater), and to also explain any items of note, within the financial results.

Delivery Program Strategy / Operational Plan Activity

The content of this report relates to the financial sustainability of Council.

This is identified within Council's adopted Delivery Program, under the Direction of Engaged Leadership.

Community Engagement Strategy

Subject to Council endorsement, the statements will be exhibited for public comment.

The statements, together with any submissions received from the exhibition process, will then be reported back to Council for adoption.

Financial / Risk Considerations

This report provides financial information on the completed and audited Annual Financial Statements for the year ended 30 June 2024.

Council is legally obliged to adopt the financial statements.

Options

Council may approve to exhibit, or not exhibit, the documents.

9.8 Annual Financial Statements - 2023/24

As Council's auditor has approved the statements, it is recommended that Council authorise signing and exhibition.

RECOMMENDATIONS

1. That Council authorises the exhibition of the Annual Financial Statements and Auditor's Reports for the year ended 30 June 2024, as per Attachment 1 to this report, for public comment.
2. That Council approves the signing of the statements that confirm the Annual Financial Statements are fair and accurate, as per Attachment 2 to this report, by the Mayor, a Councillor, the General Manager and the Responsible Accounting Officer.
3. That Council notes the annual report from the Chairperson of the Audit, Risk and Improvement Committee, as per Attachment 3 to this report.
4. That Council notes the Internal Audit and Risk Management Attestation Statement from the General Manager, as per Attachment 4 to this report.

Attachment(s)

1. 2023/24 - Annual Financial Statement (Draft) [⇒](#)
2. 2023/24 - Statements by Councillors and Management [⇒](#)
3. 2023/24 - Audit Risk and Improvement Committee Annual Report [⇒](#)
4. 2023/24 - Attestation Statement from the General Manager [⇒](#)
5. 2023/24 - Overview of Financial Statements [⇒](#)

9.9 Council Representation - External Appointments

9.9 Council Representation - External Appointments

Delivery Program

Governance

Objective

To consider Council appointments to external organisations.

Background

Council is represented by Councillors on several external organisations. The purpose of this report is to review that representation following the Council election.

Key Issues

- Councillor appointments

Discussion

Council is represented on several external organisations. This report provides information on the current representation and seeks Council direction on future representation.

Recent practice has been to appoint representatives for the term of Council, albeit that if any Councillor wished to resign from their appointment, this can be reported on at any time, and the representation changed.

There are three main categories of external organisations being:

1. State Government based organisations, typically enacted by State Government legislation, that require Council representation, i.e.
 - Rous County Council
 - Northern Regional Planning Panel
 - Northern Rivers Joint Organisation
2. Council enacted committees managed by other Councils.
 - Richmond Tweed Regional Library
3. Industry and Community Based Groups – Various groups / organisations / statutory bodies to which Council has been invited to have a representative.

Most of the representation is on a voluntary basis, with the exceptions being Rous County Council and the Northern Regional Planning Panel.

Rous County Council

Rous County Council is constituted under the Local Government Act 1993.

County Councils provide one or more functions of a local council.

9.9 Council Representation - External Appointments

This means that they have specific functions they undertake for the local councils of the areas within which they operate.

Rous County Council has three main functions; bulk water supply, weed biosecurity, and flood mitigation.

Rous County Council has eight councillors, with two nominated from each member council (Ballina, Byron, Lismore and Richmond Valley – the constituent councils).

The councillors are elected to Rous County Council at the commencement of a local government term.

The Rous County Councillors are entitled to a councillor allowance, with the Chair of Rous receiving an additional allowance.

As with Ballina Shire Council, the allowances are set by the Local Government Remuneration Tribunal, with the maximum 2024/25 Tribunal figures for a Water County Council being \$11,280 for a councillor and an additional \$18,520 for the chair.

If a Ballina Shire Councillor is interested in becoming a Councillor on Rous County Council, they must be voted in at this meeting.

County Council elections

County council elections are conducted under the provisions of the Local Government Act 1993 and the Local Government (General) Regulation 2021, with Section 396 of the Regulation stating that Schedule 9 of the Regulation applies in relation to the election of the members of a county council.

A link to Schedule 9 is as follows:

[Local Government \(General\) Regulation 2021 - NSW Legislation](#)

Part 2 of Schedule 9 applies to a single electorate and Part 3 applies to a joint electorate.

Part 2 states as follows:

This Part applies to the election of one or more members of a county council by the councillors of one constituent council, where the electorate comprises the whole or part of the area of that council only.

Part 2 is applicable to this election, as the Ballina Shire Council is electing two delegates to Rous County Council and the electorate only applies to the Ballina Shire Council local government area.

Even though Rous County Council has delegates from four councils, this election is only for the Ballina Shire Council electorate, which is why Part 3 doesn't apply.

In respect to the election process, the key points from Schedule 9 are:

Clause 4 Returning officer

The general manager of the constituent council (or a person appointed by that general manager) is the returning officer.

Clause 5 Nomination

- (1) A councillor of the constituent council may be nominated for election as a member of the county council.*
- (2) The nomination--
 - (a) may be made without notice by any councillor of the council, and*
 - (b) is to be in writing delivered or sent to the returning officer, and*
 - (c) is not valid unless the nominee has indicated consent to the nomination in writing**
- (3) The returning officer is to announce the names of the nominees at a council meeting.*

Clause 6 Election

- (1) If the number of candidates nominated is not more than the number of vacancies to be filled, those candidates are to be declared elected.*
- (2) If there are more candidates nominated than the number to be elected, an election is to be determined by preferential ballot. The ballot is to be conducted by the preparation, marking and counting of ballot-papers in the presence of the council.*

Clause 7 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the figures 1, 2 and so on against the various names so as to indicate the order of their preference for at least the number of candidates to be elected.*
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with section 345 of this Regulation as if it were a ballot-paper referred to in that section.*
- (3) An informal ballot-paper is to be rejected at the scrutiny of votes.*

Clause 8 Count

- (1) For the election of 1 member, the votes are to be counted in accordance with Schedule 4.*
- (2) For the election of 2 or more members, the votes are to be counted and the result of the election ascertained in accordance with the following procedures—
 - (a) one of the candidates is elected in accordance with subsection (1),*
 - (b) all the unrejected ballot-papers are rearranged under the names of the respective candidates in accordance with the first preferences marked on the ballot-papers, except that each ballot-paper on which a first preference for the elected candidate is indicated is placed in the parcel of the candidate next in the order of the voter's preference,*
 - (c) the number of ballot-papers in the parcel of each candidate is counted and the total number of votes counted for each candidate is ascertained,*
 - (d) if a candidate then has an absolute majority of votes, the candidate is elected,*
 - (e) if a candidate does not have an absolute majority of votes, the count proceeds according to Schedule 4, section 3(d), (e) and (f), until 1 candidate has received an absolute majority of votes,*
 - (f) Schedule 4, section 3(d) and (e) are to be read for this section as if a reference in those paragraphs to first preference votes were a reference to all the votes counted to a candidate under this subsection,*
 - (g) the candidate who has received an absolute majority of votes is elected.**
- (3) If more than 2 candidates are to be elected, the votes are to be counted in accordance with the procedures under subsection (2) until the result of the election of additional candidates is ascertained.*
- (4) In the process of counting under subsection (1) or (2), exhausted ballot-papers are set aside as finally dealt with and are not taken into account in the election of a candidate.*

9.9 Council Representation - External Appointments

Clause 9 Result

The result of the election (including the names of the candidates elected as members) is-

(a) to be declared to the councillors by the returning officer at the council meeting where the election is held, and

(b) to be delivered or sent to the general manager of the county council and the Secretary.

Schedule 4 of the Regulation details how votes are to be counted under the optional preferential system. A link to Schedule 4 is as follows:

[Local Government \(General\) Regulation 2021 - NSW Legislation](#)

Under Schedule 4, there is a process for excluding candidates with the fewest number of votes.

When there is an equality of votes in determining the candidate to be excluded, under s6(1)(a) of Schedule 4, the candidate who had the fewest votes at the last count before the equality occurred is excluded.

However, if they had an equal number of votes at all preceding counts, under s6(1)(b) of Schedule 4, the Returning Officer is to exclude a candidate using an “approved method” of random selection.

An “approved method” of random selection means a method approved by the Returning Officer (s6(2)(b) of Schedule 4).

The General Manager, as Returning Officer, has determined that the “approved method” under s6(1)(b) of Schedule 4 will be placing the names of the candidates with the fewest votes on pieces of paper, putting those names into a container and drawing out one name.

The name of the candidate drawn out of the box will be the candidate **excluded** under s6(1)(b) of Schedule 4. This relates to where the candidate is to be excluded.

However, if the situation does arise where there is an equal number of votes for the candidate to be elected (rather than excluded), the name drawn from the container will be the candidate elected (as per the process for election of the Deputy Mayor) as per Schedule 7 of the Local Government Regulation.

Nomination forms have been included with the business paper.

Completed nomination forms should be provided to the General Manager, as the Returning Officer, prior to or at the start of the meeting to enable the preparation of the ballot papers for the elections to be held as part of the Council’s consideration of this report.

Northern Regional Planning Panel

Sydney and Regional Planning Panels were introduced to NSW in 2009 to determine regionally significant development applications and other planning matters.

9.9 Council Representation - External Appointments

The following is link to the State Government website titled "About Planning Panels":

<https://www.planningportal.nsw.gov.au/planning-panels/about-planning-panels>

'Regionally significant development' is defined by a set of criteria under State Environmental Planning Policy (State and Regional Development) 2011.

A typical example of what constitutes regionally significant development is development with a capital investment value (CIV) over \$30 million.

There are five Sydney Planning Panels and four Regional Planning Panels across NSW.

Each Panel is an independent body that is not subject to the direction of the Minister of Planning.

Under the Environmental Planning and Assessment Act, a council can nominate two persons as council nominees for the purposes of the Panel, at least one of whom has expertise in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, or tourism.

A Panel is comprised of five members: three appointed by the Minister and two appointed by the local council.

Each Panel also includes alternates to act in place of the permanent members, if they are unavailable for any reason including conflicts of interest.

The current Ministerial appointed members to the Northern Regional Planning Panel are Chair Dianne Lesson and State Members Michael Wright and Stephen Gow.

For Panel matters relating to proposals in Ballina Shire, Council has often appointed the Mayor and the Deputy Mayor as the delegates and two other Councillors as alternate delegates.

Some councils also have no Councillors on the Panel and appoint members of the community to the Panel, with the expertise outlined earlier.

Council's adopted Councillor and Expenses Facilities Policy states that the Councillor representative(s) on the Planning Panel will be paid an allowance of \$600 per meeting, with the Panel holding around two to three meetings per annum to determine development proposals relating to Ballina Shire.

Meeting frequency is dependent entirely on the number of applications that meet the Panel's assessment criteria.

The preferred approach is still to have Councillors on the Panel and alternate delegates are also required in case of a conflict of interest, or the unavailability of a representative.

9.9 Council Representation - External Appointments

Northern Rivers Joint Organisation (NRJO)

Joint organisations (JOs) are legislated under the NSW Local Government Act.

They have been formed to provide a way for local councils and the NSW Government to work together to deliver things that matter the most to regional communities.

They represent a commitment to collaborate in the long term to develop and support a shared vision for the region.

The NRJO member councils are the seven Local Government Areas of Ballina, Byron, Clarence Valley, Lismore, Richmond Valley, Kyogle and Tweed in the Northern Rivers region of Northern NSW.

The NRJO Board membership is the mayor of each council.

Meetings are held quarterly.

NRJO has been seeking an alternate delegate for meetings in case the Mayor is unavailable, and it is recommended that Council appoint the Deputy Mayor as that alternate delegate.

Richmond-Tweed Regional Library Committee (RTRL)

The RTRL manages library services for the Ballina, Byron, Lismore and Tweed councils.

Council's representation comprises of two councillors and an alternate delegate with this committee constituted by Lismore City Council and the RTRL Deed of Agreement (DoA) between all four member councils.

The DoA was endorsed by the Richmond Tweed Regional Library (RTRL) Committee in December 2022.

The Deed specifies the roles and responsibilities of the Committee, Executive Council, Member Councils and Senior Leadership Group, and the operational requirements applicable to the service.

It appoints Lismore City Council as the Executive Council and the legal entity representing RTRL (i.e. Lismore employs all the library staff).

All Member Councils have adopted the DoA which expires in June 2027.

Meetings are held quarterly and last for approximately two hours.

Industry and Community Groups

a) Chambers of Commerce (Ballina, Alstonville and Lennox Head)

Delegates are typically the Ward Councillors plus the Mayor, although at times additional Councillors have nominated for the Ballina Chamber, as the largest chamber in the Shire.

9.9 Council Representation - External Appointments

b) Cape Byron Marine Park Authority Advisory Committee

Council has one delegate with this appointment overseen by the State Government. The Advisory Committee provides input into the operations of the Cape Byron Marine Park.

Cr Chate is the current Council representative. Cr Chate was appointed in 2022. The appointments are generally for four years.

The State Government will call for nominations closer to the expiry of the existing appointment.

There is typically a minimum of two meetings per annum, with the Committee able to reimburse out-of-pocket expenses including travel costs.

When the current term expires, a further report will be presented to Council to confirm the appointment.

c) Bush Fire Management Committee

Council has one delegate with this Committee providing input into fire services for the region.

Representatives include a Councillor from Ballina and Byron Shire, staff from Byron, Ballina and Tweed Councils, Rural Fire Service, Fire and Rescue, Essential Energy, The Nature Conservation Council of NSW, North Coast Farmers Federation, Cane Growers, Crown Lands and Local Aboriginal Land Councils.

This Committee normally meets quarterly.

d) Australian Coastal Councils Committee of Management

Council is a member of this organisation.

Cr Cadwallader is currently the Chair of this organisation.

The Committee of Management consists of two elected representatives from member councils in each State, for a period of two years, which will expire at the 2025 Annual General Meeting.

There is no requirement for Council to nominate for the Committee of Management, as the term has not concluded.

Council is a financial member of this organisation.

e) Ballina Naval Museum

Council has previously nominated two councillors to represent Council on the Ballina Naval Museum Committee.

This Committee meets as required and provides a conduit between Council and the operations of the Naval Museum.

Delivery Program Strategy / Operational Plan Activity

Representation on external organisations forms part of Council's overall direction of Engaged Leadership and involving our community in our planning and decision-making process.

Community Engagement Strategy

Representation on external organisations is an important component in Ballina Shire's consultation with the broader community.

Financial / Risk Considerations

If nominated as a delegate Councillors are entitled to claim travel expenses to attend meetings.

These expenses are paid by Council, except in the case of Rous County Council, which pays the expenses direct to the delegate, and the Australian Coastal Council Management Committee and Cape Byron Marine Park, which pay some contribution towards travel costs.

Options

The recommendations are consistent with the contents of this report, with Council able to select or elect its representatives for the organisations listed.

RECOMMENDATIONS

1. That Council conduct an election for the two Council delegates to Rous County Council.
2. That Council approves the Mayor and Deputy Mayor as the two delegates to the Northern Regional Planning Panel.
3. That Council nominate two alternative delegates to the Northern Regional Planning Panel.
4. That Council notes that the Mayor is the Council delegate on the Northern Rivers Joint Organisation, with the Deputy Mayor approved as the alternate delegate.
5. That Council nominate two Council delegates, and one alternate, for the Richmond-Tweed Regional Library Committee (RTRL).
6. That Council approves the Mayor, and the respective Ward Councillors as the delegates to the:
 - Ballina and District Chamber of Commerce.
 - Lennox Head Chamber of Commerce.
 - Alstonville/Wollongbar Chamber of Commerce
7. That Council notes that one delegate will be required for the Cape Byron Marine Park Advisory Committee, when nominations are called by the Committee, with Cr Chate continuing to act as the current delegate.

9.9 Council Representation - External Appointments

8. That Council nominate one delegate to the Bush Fire Management Committee.
9. That Council notes Cr Cadwallader is current delegate and Chair of the Australian Coastal Councils' Association.
10. That Council nominate two delegates to the Ballina Naval Museum.

Attachment(s)

1. Rous County Council - Nomination Form 2024 [↔](#)

9.10 Council Committees

9.10 Council Committees

Delivery Program

Governance

Objective

To review the current Council committee structure and Councillor appointments.

Background

Committees provide a useful strategy for councils to manage the wide range of information and responsibilities that are presented to the elected Council.

For example, a committee meeting, prior to a formal Council meeting, allows an opportunity for matters to be canvassed, and time allocated, that may not always be available in a more structured monthly Council meeting.

At the same time committees can consume resources and time and it is important to ensure that day to day operations do not become tied down with an overly cumbersome, or excessive, committee structure.

Councils can have many differing committee structures in place, and it is a matter for each council to determine what structure works best for their area.

Section 377 of the Local Government Act 1993 allows a council to delegate certain functions to a committee and whether a committee is to have any delegated authority is also a key consideration in determining committee structures.

The report that follows provides an overview of the current committee structure, with Council having the opportunity to endorse or amend that structure.

Key Issues

- Format of committee structure including delegations
- Councillor appointments

Discussion

The existing Committee Structure can be grouped into three main categories:

1. Standing Committees – Consist solely of Councillors to consider items of business before the Council.

These committees must comply with the Code of Meeting Practice, as they consist solely of Councillors.

2. Ward Committees – Consist of Councillors and community representatives to discuss items of interest for each Ward.

3. Miscellaneous Committees / Taskforces / Panels – Formed to carry out a specific task or function. Can be disbanded when a task is completed or can be ongoing.

An overview of each of these categories follows.

1. Standing Committees

The existing standing Committees are:

- Commercial Services Committee - Considers commercial and property dealings of Council, with the aim of any commercial activity typically being the provision of supplementary revenue streams that assist Council in the delivery of services to the community. Membership consists of all councillors with no delegated authority. The Committee meets regularly due to Council's large commercial property portfolio.
- Environmental and Sustainability Committee - Considers matters of a strategic planning nature, i.e. local environmental plan (LEP) - Membership consists of all councillors with no delegated authority. This Committee has not met since December 2015.
- Finance and Facilities Committee – To consider matters such as Council's annual Delivery Program, Operational Plan and budget deliberations, and to provide input into the facilitation and construction of major community facilities. Membership consists of all councillors with no delegated authority. This Committee typically meets a few times each year.

The Standing Committees provide a forum outside the monthly Council meeting for Councillors to consider matters that may be complex or comprehensive.

The meetings can operate like a workshop or briefing, which allows extensive dialogue between Councillors and staff or expert consultants.

The Commercial Services, Environmental and Sustainability, Finance and Facilities Committees have traditionally had no delegated authority and any recommendations are submitted to the next Ordinary Council meeting for final resolution.

This can provide a second opportunity for matters to be debated. It can also help clarify matters raised before the Ordinary meeting.

When determining the future Standing Committee structure, it is important to carefully review their effectiveness.

It has previously been recommended to not form the Environmental and Sustainability Committee, as typically Councillor briefings have been a better process for discussing LEP and related matters.

This has not been the preference of the Council and the Committee has been reconstituted following the last two elections in 2016 and 2021.

The recommendation that follows is to reconstitute the two Committees being Finance and Facilities and Commercial Services, with the Environmental and Sustainability Committee not being recommended. As mentioned, there has been no meeting of this Committee since 2015 and matters relevant to this Committee have been adequately dealt with through briefings, as required.

2. Ward Committees

One of the major difficulties for any council is to actively engage with the broader community.

Activities such as advertising, public meetings, surveys, focus groups, publications, use of flyers etc are often used to try and obtain broad community feedback on matters of importance.

Despite these on-going efforts it is often people, with a potential vested interest, who will respond to matters, which means that Council struggles to obtain wider community feedback.

A key role for a Councillor is to try and gauge what is the community position on issues placed before the Council.

Council continues to trial different ways to engage with the community and the Ward Committees (one for each ward) were set up to allow all interested not for profit community groups to have a set forum to engage with Council.

The terms of reference adopted by Council for the Ward Committees is very broad, as follows:

"To provide Council with feedback and policy advice on matters referred by Council and/or raised by members on behalf of their community"

The Committees meet once every two months, in the evening and have no delegated authority. Minutes and agendas are distributed to all Councillors by the Councillor Bulletin.

The current membership of the Ward Committees is as follows:

A Ward

Ballina Day View Club
Lighthouse Day Club
Ballina Environment Society (BES)
Ballina CWA
Ballina Chamber of Commerce & Industry
East Ballina Lions Club
Ballina Bears Cricket Club
Ballina & District Citizens & Ratepayers Association
Ballina Peninsular Residents Association
Ballina Evening View Club
Ballina Lighthouse & Lismore Surf Lifesaving Club
Ballina Coast High School
Cumbalum Residents Association
Dementia Inclusive Ballina Alliance
Ballina Croquet Incorporated
St Vincent de Paul
Northern Rivers Disc Golf Club
Ballina Cancer Advocacy Network
Ballina Naval and Maritime Museum

B Ward

Lennox Head Residents Association
Ballina Environment Society (BES)
Lennox Head Chamber of Commerce
Lennox Head Combined Sports Association
Lennox Community Gardens Inc
Lennox Head-Alstonville Surf Life Saving Club
Lennox Head Landcare
Marine Rescue Ballina
NSW Sport & Recreation, Lennox Head
Preserving Lake Ainsworth Association (Inc)

C Ward

Rous Mill Ratepayers Association
Wollongbar Community Action Network (WCAN)
Wardell Progress Association
Alstonville Plateau Historical Society
Ballina Environment Society (BES)
Alstonville/Wollongbar Chamber of Commerce
Tuckombil Landcare
Alstonville & District Cricket Association
Alstonville Football Club
Alstonville Community Pre-school
Alstonville Asphalt Watch Group
LinC Alstonville
WardellCORE
Alstonville Agricultural Society

The Ward Committees provide an opportunity for Ward councillors and staff to hear directly from community group representatives on issues in their local areas. They are reasonably efficient in that they save Council having to create a myriad of other committees to deal with matters.

There is some feedback that community membership of these types of community groups has been trending down over time, and residents who are not members do not have a view considered at these meetings.

This is a fair comment, and the onus is always on Council to engage with the broader community in different ways, with Council continuing to expand its consultation methods, such as increased use of on-line technology, street stalls, public meetings, select community forums etc.

The Ward Committees provide just one of the many important feedback mechanisms to Council and as long as it is acknowledged that Council also needs to seek feedback from other sources, it is recommended that the Ward Committees continue.

If the Ward Committees are retained, Council will write to all existing members to confirm they wish to remain on the Committee, along with calling for expressions of interest for any new members.

Council also has an existing resolution that where a member has not attended a meeting in over 12 months, the General Manager has authority to write to that group seeking clarification as to whether they wish to remain on the committee. If they don't the General Manager can remove their membership.

3. Miscellaneous Committees / Taskforces / Panels

This section of the report outlines the remaining committees / groups etc that currently exist.

Access Reference Group - This Reference Group, which is not formed by Council resolution, but rather is co-ordinated by operational staff, meets every two months to discuss mobility and access issues, particularly disabled access, for the Shire.

Membership consists of community representatives who have a disability and / or represent a disability group.

The Group has no delegated authority and there are no Councillor appointed representatives, although Councillors can attend as observers.

This group plays an important consultation role for Council.

Australia Day Committee – Council provides delegated authority to the Australia Day Committee, which consists of all Councillors present, to determine the award recipients for Australia Day.

This Committee provides flexibility in setting a meeting time to determine the Award recipients once nominations close and avoid the needs to report the award recipients to a formal Council meeting.

The next meeting will be in December 2024 to determine the 2025 award recipients.

General Manager's Performance Review Committee – This Committee conducts the annual performance review for the General Manager with the recommendations reported to Council for confirmation.

A specialist consultant, typically from the industry representative body, LGNSW, is often engaged to assist with the review.

The latest advice from LGNSW is to have the review committee membership consisting of the Mayor, Deputy Mayor and a Councillor selected by the General Manager.

Audit Risk and Improvement Committee – The Local Government Act (LGA) 1993 was amended to require councils to appoint an audit, risk and improvement committee (ARIC).

Section 428A of the LGA states as follows:

(1) A council must appoint an Audit, Risk and Improvement Committee.

(2) The Committee must keep under review the following aspects of the council's operations-

- (a) compliance,*
- (b) risk management,*
- (c) fraud control,*
- (d) financial management,*
- (e) governance,*
- (f) implementation of the strategic plan, delivery program and strategies,*

9.10 Council Committees

- (g) service reviews,
- (h) collection of performance measurement data by the council,
- (i) any other matters prescribed by the regulations.

(3) The Committee is also to provide information to the council for the purpose of improving the council's performance of its functions.

In 2019, the Office of Local Government (OLG) developed a new Risk Management and Internal Audit Framework model for Councils and accompanying Guidelines. In 2024, the Local Government (General) Amendment (Audit, Risk and Improvement Committees) Regulation commenced.

The Risk Management and Internal Audit Framework and Guidelines can be found on the Office of Local Government (OLG) website using the following link: [Risk Management and Internal Audit Guidelines](#)

Council's current internal audit program is delivered by an external provider, being Grant Thornton and Associates. This firm was appointed following a public tender process.

Council's external audit program is managed through the NSW Audit Office and the Audit Office has a tender process underway to appoint new auditors for this function. Previously Thomas Noble and Russell (now named HLB Mann Judd) have been the awarded the tender for Ballina Shire Council.

Council's previously ARIC comprised of two Councillors and three independent community members, with representatives from Grant Thornton and Associates, the NSW Audit Office and Thomas Noble and Russell regularly attending.

The three independent community members have recently been reappointed to their role on Ballina Shire Council's ARIC.

The most recent meeting was on 15 October 2024 to review the draft financial statements.

In respect to Councillor membership on the ARIC, the OLG Guidelines states that Council has an option to appoint one non-voting Councillor member, who meets the eligibility criteria. The eligibility criteria for councillor members include:

- An ability to read and understand financial statements and capacity to understand ethical requirements (i.e. potential conflicts of interest).
- Good understanding of one or more of the following: risk management, performance management, human resources, auditing, financial reporting, accounting, governance, or business operations.
- Capacity to form independent judgements and willingness to challenge practices/information.
- Professional and ethical approach to exercise their duties and devote required time necessary.
- Prepared to undertake training on the operation of the ARIC as recommended by the Chair.

The OLG Guidelines state the mayor cannot be appointed as a councillor member on the ARIC, however the mayor can request to meet with the Chair of

9.10 Council Committees

the ARIC, at any time, to discuss any issues relating to the work of the committee during the quarter.

A focus of the new OLG guidelines is to ensure independence of committee and voting members to ensure that there is no real or perceived bias or conflicts of interest that may interfere with the ability to act independently and provide council with robust, objective and unbiased advice about how the council is functioning.

Council has always been pro-active in respect to having a strong and independent internal audit and risk function.

The recommendation supports this approach.

Local Traffic Committee (LTC) – The LTC consists of four formal members with representatives from the NSW Police, the Transport for NSW (TfNSW), the local State Member of Parliament (or their nominee) and Council.

The committee is not formed by Council under the Local Government Act but rather is formed as a requirement of Council to meet its statutory obligations delegated by the Transport for NSW to Council in respect of the NSW Roads Act. The operation of the LTC is then managed by a technical direction from the TfNSW.

The representative from Council is the Chairperson in accordance with the TfNSW guidelines. A link to the guidelines can be found here:

[A Guide to the delegation to councils for the regulation of traffic Including the operation of Traffic Committees \(nsw.gov.au\)](https://www.nsw.gov.au/transport/road-traffic/traffic-committees).

Whilst the guidelines provide that Council is limited to this one position, the appointment can be a Councillor or staff member.

Other persons from Council may attend the meeting but cannot vote.

This Council has traditionally appointed its senior engineer to the position.

This appointment has been made based on the TfNSW guidelines (page 12) which state that:

"The LTC is primarily a technical review committee, which is required to advise the Council on matters referred to it by Council. The LTC should consider the technical merits of the proposal and ensure that the proposal meets current technical guidelines. "

The LTC considers a range of traffic control matters some of which are determined under delegation by Council staff, some of which need to be reported to Council and some of which are forwarded to the TfNSW for determination.

Councillors can attend meetings as observers.

9.10 Council Committees

Ballina Shire Economic Activation Group – This group was formed during the last term of Council, based on the following terms of reference.

To bring together key stakeholders to share and promote ideas and strategies that support:

- *long term economic sustainability of the Ballina Shire*
- *increased diversity of activities with the Ballina Shire, both business and social*
- *actions that increase day and night activities that optimise the benefits from the infrastructure and businesses located in the Ballina Shire.*

Membership includes the Mayor, one councillor from each Ward, and one representative from each of the three shire chambers of commerce, Destination North Coast, and Business NSW.

Meetings are held at least every three months.

Waterways Advisory Group – This group was formed during the last term of Council, based on the following terms of reference:

The primary objective is to pursue the restoration of the waterways within the Ballina Shire to a healthy state, while supporting social and economic benefits that a healthy and diverse waterway system can bring to our community.

Key responsibilities include:

- *Provide input into Council's annual healthy waterways program*
- *Assist in on-going monitoring of the health of the Ballina Shire waterways*
- *Identify opportunities to lobby industry, the State and Federal Governments and other stakeholders for support in implementing actions that improve the health of our waterways and benefit the local economy*
- *Monitor the implementation of Council's adopted plans for improving our waterways, including but not limited to:*
 - a) *Lake Ainsworth Coastal Management Plan*
 - b) *Shaws Bay Coastal Management Plan*
 - c) *North Creek Coastal Management Plan (in preparation)*
 - d) *Richmond River Estuary Coastal Zone Management Plan (under review in conjunction with Rous, Lismore and Richmond Valley councils)*
 - e) *Ballina Shire Coastline Management Plan*
 - f) *Martin Street Boat Harbour Master Plan*
 - g) *Ballina Marina Master Plan*

Membership includes two Councillors, state government agencies and other interested stakeholders.

This group only met once during the last term of Council, with staff from Council's Public and Environmental Health Section managing the meetings.

Even though the group only met once, the advice from staff is that the members do provide important feedback, on an ongoing basis, in respect to Waterways related matters, and on that basis, it is recommended that Council again form this group.

9.10 Council Committees

Public Art Advisory Panel – Council has a Public Art Policy, which states that a Public Art Advisory Panel will be formed to provide guidance on the implementation of that policy (refer to our web site for details on the policy).

The Panel Members provide input into what is appropriate public art arising from projects being implemented by Council, or funding contributed to Council, as part of a development consent.

The Panel consists of three Councillors (one from each Ward, one of which is the Chair) and at least one suitably qualified arts industry representative.

Council's Gallery Coordinator oversees the operation of the Panel, with meetings held as required.

Delivery Program Strategy / Operational Plan Activity

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

Community Engagement Strategy

Committees provide an opportunity for consultation with the community and can also provide an opportunity for Councillors to consider matters prior to reporting to the monthly ordinary meeting.

Committees are one component of Council's engagement with the community with other formats including:

- Social media
- Online surveys
- Community newsletter (hardcopy and email)
- Council website
- Advertising in local publications

Financial / Risk Considerations

It is important that Council, in creating any committees, ensures that the membership of the Committee is clear, along with the terms of reference and delegations, if any.

Committees can impact heavily on staff resources and Councillor time, so it is essential that the need for any Committee is clearly demonstrated.

Options

As it is important for Council to continue to operate effectively the preferred option is to endorse the continuation of most of the current committee structure, with some possible changes.

The changes relate to:

- Not forming the Environmental and Sustainability Committee, as it has not met in nine years and alternate methods such as briefings are implemented for matters that may fall under the terms of reference for that committee.

- Continuing the Audit, Risk and Improvement Committee, with membership consistent with the Office of Local Government Guidelines.

Council may wish to amend these recommendations, or with this being the first meeting of the new Council, Council may wish to defer any final decision on this report until a briefing is held between Councillors and staff.

That briefing would allow an opportunity for Councillors to examine the advantages and disadvantages of the existing arrangements, along with reviewing other options.

RECOMMENDATIONS

1. That Council approves the formation of two Standing Committees, being the:
 - Commercial Services Committee
 - Finance and Facilities Committee
2. The terms of reference for the Standing Committees are as follows:
 - Commercial Services Committee - To introduce, evaluate and review the commercial dealings and operations of Council, with the aim of any commercial activity being the provision of supplementary revenue streams that assist Council in the delivery of services to the community.
 - Finance and Facilities Committee - To consider financial matters of a strategic nature including Council's annual budget deliberations and to provide strategic input into the facilitation and construction of major community facilities.
3. Membership of the Standing Committees is to consist of all Councillors.
4. The Commercial Services and Finance and Facilities Committees have no delegated authority.
5. That Council confirms it will retain the existing structure and membership of the three Ward Committees, based on the terms of reference outlined in this report, with expressions of interest to be called for any additional membership. These Committees have no delegated authority. The General Manager is also authorised to remove any member from the Committees, where they have not attended a meeting in 12 months and not advised they wish to remain on the committee.
6. That Council notes the role of the Access Reference Group in providing feedback on mobility and access related matters.
7. That Council confirms it will retain the Australia Day Committee, with membership consisting of all Councillors. This Committee has delegated authority to determine the recipients of the Australia Day Awards.

9.10 Council Committees

8. That Council confirms the General Manager's Performance Review Committee is to comprise the Mayor and Deputy Mayor and one Councillor, as selected by the General Manager.
9. That Council notes the legislative requirements for the Audit Risk and Improvement Committee (ARIC). That Council appoint one Councillor as a non-voting member to the ARIC, as determined at this meeting and update the ARIC Terms of Reference to reflect the elected Councillor.
10. That Council notes the contents of this report in respect to the Local Traffic Committee and confirms that the General Manager (or nominated delegate) is the Council appointment to that Committee.
11. That Council confirms it will retain the Ballina Shire Economic Activation Group based on the membership and terms of reference outlined in this report. The Group has no delegated authority and membership consists of all Councillors and representatives from stakeholder groups.
12. That Council confirms it will retain the Waterways Advisory Group based on the membership and terms of reference outlined in this report. The Group has no delegated authority, and two Councillor representatives are to be determined at this meeting.
13. That Council determine the three representatives to the Public Art Advisory Panel, consistent with the Council Public Art Policy.

Attachment(s)

Nil

9.11 Tender - Aviation Security and Screening Services

9.11 Tender - Aviation Security and Screening Services

Section Commercial Services

Objective To report the outcomes of the tender evaluation for the Tender - Aviation Security and Screening Services

Background

The works to be undertaken under this contract are Aviation Security and Screening Services at the Ballina Byron Gateway Airport, in accordance with all relevant Aviation Transport Security Acts, Aviation Transport Security Regulations, Aviation Security Notices and Ballina Shire Council's Transport Security Program

Tenders were called on 9 September 2024 and at the close of tenders on 1 October 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

Ten companies downloaded the documentation with tenders received from:

- Aerodrome Management Services Pty Ltd
- M.A Services Group Pty Ltd
- MSS Security Pty Ltd

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

- Insurances (including Aviation Security Operations Insurance)
- Master Security Licence

Only one tender submission met all aspects of the mandatory assessment and was assessed using the following weighted criteria:

- Pricing structure 40%
- Performance history in Aviation Passenger Screening 30%
- Resourcing 15%
- Local and community 15%

MSS Security Pty Ltd has been assessed as the preferred tenderer based on the evaluation and the tendered Schedule of Rates. Details of the assessment and pricing options have been provided to Councillors by a confidential memorandum.

Community Engagement Strategy

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

Financial / Risk Considerations

Aviation Security Screening costs are budgeted for in Ballina Byron Gateway Airport's operating budget and fully recovered through commercial airline operator fees.

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 MSS Security 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 MSS Security Pty Ltd for the Tender - Aviation Security and Screening Services for the Schedule of Rates tendered.
2. That Council authorises the General Manager to sign the contract documents.

Attachment(s)

1. Tender Evaluation - Aviation Security and Screening Services - Ballina Byron Gateway Airport - Confidential Councillor Memorandum (Under separate cover) (Confidential)

9.12 Tender - Ballina Pump Track - Design and Construct

9.12 Tender - Ballina Pump Track - Design and Construct

Section Open Spaces

Objective To report the outcomes of the tender evaluation for the Tender - Ballina Pump Track - Design and Construct

Background

The works to be undertaken under this contract are the Design and Construction of a Pump Track within the Kingsford Smith Precinct.

Tenders were called on 24 July 2024 and at the close of tenders on 18 September 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

Forty companies downloaded the documentation with tenders received from:

- Trailworx Australia
- Boyds Bay Landscape and Environment
- Civilwise Pty Ltd
- Common Ground Trails Pty Ltd

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

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

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

- | | |
|-----------------------------------|-----|
| • Pricing structure | 25% |
| • Capability and Suitability | 30% |
| • Profile and Relevant Experience | 20% |
| • Construction Methodology | 10% |
| • Local and community | 15% |

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

Delivery Program Strategy / Operational Plan Activity

The Ballina Pump Track at Kingsford Smith Reserve is an identified capital works project in the Delivery Program and Operational Plan for the 2024-25 financial year. The project is an activity that supports the objectives of CC3.2 – Provide young people with a range of leisure activities.

Community Engagement Strategy

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

Financial / Risk Considerations

This project has been fully funded through the State Government's Stronger Country Communities Fund (Round 5).

All tenders have exceeded the allocated budget of \$729,000.

There are aspects of the tendered scope that can be negotiated with the tenderers to achieve the required project objectives within or close to the project budget.

There is also an option to allocate further funds to this project through developer contributions collected by Council as per the Open Spaces and Community Facilities Contributions Plan.

As part of the further negotiations, if there are viable options to increase the budget, to improve the overall outcomes from the project, a further report can be submitted back to Council.

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 declines to accept any tenders.

Sections 178(3) and (4) of the regulations provide direction in the circumstances where a Council declines to accept any tenders in accordance with section 178(1)(b); i.e.

(3) A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:

9.12 Tender - Ballina Pump Track - Design and Construct

- (a) *postpone or cancel the proposal for the contract,*
 - (b) *invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
 - (c) *invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*
 - (d) *invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
 - (e) *enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
 - (f) *carry out the requirements of the proposed contract itself.*
- (4) *If a council resolves to enter into negotiations as referred to in subclause 3 (e), the resolution must state the following:*
- (a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
 - (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

This approach will enable staff, prior to the issue of a letter of award, to resolve any outstanding points in the contract, review the final scope of works with a preferred contractor, and limit the overall change required to the adopted budget.

There also remains the option of expanding the budget, as part of those negotiations, and subject to further reporting back to Council.

RECOMMENDATIONS

1. That Council in accordance with the Local Government (General) Regulation 2021 Section 178(1)(b), declines to accept any tenders for the Tender - Ballina Pump Track - Design and Construct as the prices tendered exceed current commercial viability.
2. That Council, in accordance with Local Government (General) Regulation 2021 Section 178(3)(e) authorises the General Manager to enter into negotiations with parties, whether or not they have tendered, with a view to enter into a contract for the Tender - Ballina Pump Track - Design and Construct.
3. That in accordance with the Local Government (General) Regulation 2021 Section 178(4)(a) the reason Council has declined to invite fresh tenders is that the tender process has established sufficient market interest and it is more efficient and timely to negotiate with interested parties than call for new submissions.

9.12 Tender - Ballina Pump Track - Design and Construct

4. That in accordance with the Local Government (General) Regulation 2021 Section 178(4)(b), Council has determined to negotiate with parties, whether or not they have tendered, with a view to entering into a contract in relation to the subject matter.

Attachment(s)

1. Tender Evaluation - Design and Construct a Pump Track - Kingsford Smith Precinct (Under separate cover) (Confidential)

9.13 Tender - Lennox Head Wastewater Treatment Plant - Belt Press

9.13 Tender - Lennox Head Wastewater Treatment Plant - Belt Press

Section Water and Wastewater

Objective To report the outcomes of the tender evaluation for the Tender - Lennox Head Wastewater Treatment Plant - Belt Press

Background

The works to be undertaken under this contract are the supply, install and commission of a belt press filter press dewatering system and polymer batching system at the Lennox Head Wastewater Treatment Plant.

Tenders were called on 26 June 2024 and at the close of tenders on 7 August 2024, five 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

Thirty-three companies downloaded the documentation with tenders received from:

- Aqualyng ICES
- Global Water Technologies Pty Ltd
- Pro Engineering Services Pty Ltd
- Pensar Construction Group
- Re-Pump Australia Pty Ltd

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

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

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

- Pricing structure 60%
- Methodology, Program and Capability 25%
- Local and community 15%

9.13 Tender - Lennox Head Wastewater Treatment Plant - Belt Press

Re-Pump Australia 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

Delivery Program Strategy to *Minimise negative impacts on the natural environment* with an Operational Plan Activity being HE3.2e – Ensure compliance with Environmental Protection License Concentration Limits

Community Engagement Strategy

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

Financial / Risk Considerations

This contract is not considered to impose any additional financial risk to Council. The total cost of the preferred tender is \$343,649.00, excluding GST.

Options

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

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

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

Based on the tender evaluation, it is recommended that Council accept the tender from Re-Pump Australia 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 Re-Pump Australia Pty Ltd for the Tender - Lennox Head Wastewater Treatment Plant - Belt Press for the total amount of \$343,649.00 (excluding GST).
2. That Council authorises the General Manager to sign the contract documents.

Attachment(s)

1. Tender Evaluation - Lennox Head Wastewater Treatment Plant Belt Press Upgrade - Confidential Councillor Memorandum (Under separate cover) (Confidential)

9.14 Tender - Saunders Oval Sports Field Improvements

9.14 Tender - Saunders Oval Sports Field Improvements

Section Open Spaces

Objective To report the outcomes of the tender evaluation for the Tender - Saunders Oval Sports Field Improvements

Background

The works to be undertaken under this contract are Saunders Oval Sports Field Improvements.

Tenders were called on 1 August 2024 and at the close of tenders on 3 September 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-six companies downloaded the documentation with tenders received from:

- Twin View Turf Pty Ltd
- Precision Projects
- Sports Build Pty Ltd

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

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

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

- Pricing structure 30%
- Works program / Delivery Timing 30%
- Capability, experience, and performance history 25%
- Local and community 15%

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

Delivery Program Strategy / Operational Plan Activity

The Saunders Oval Sports Field Improvements is an identified capital works project in the Delivery Program and Operational Plan for the 2024-25 financial year, grant funded through the Sports Priority Needs Program 2022. The project is an activity that supports the objectives of CC3.2 – Provide young people with a range of leisure activities delivery program strategy.

Community Engagement Strategy

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

Financial / Risk Considerations

As all tenders have exceeded the allocated budget for these works, there are aspects of the tendered scope that can be negotiated with the tenderers to achieve the required project objectives within or close to the project 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 declines to accept any tenders.

Sections 178(3) and (4) of the regulations provide direction in the circumstances where a Council declines to accept any tenders in accordance with section 178(1)(b); i.e.

- (3) A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*
- (a) postpone or cancel the proposal for the contract,*
 - (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
 - (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*
 - (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*

9.14 Tender - Saunders Oval Sports Field Improvements

- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
 - (f) carry out the requirements of the proposed contract itself.*
- (4) If a council resolves to enter into negotiations as referred to in subclause 3 (e), the resolution must state the following:*
- (a) the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
 - (b) the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

This approach will enable staff, prior to the issue of a letter of award, to resolve any outstanding points in the contract, review the final scope of works with a preferred contractor, and limit the overall change required to the adopted budget.

RECOMMENDATIONS

1. That Council in accordance with the Local Government (General) Regulation 2021 Section 178(1)(b), declines to accept any tenders for the Tender - Saunders Oval Sports Field Improvements as the prices tendered exceed the allocated budget for the works.
2. That Council, in accordance with Local Government (General) Regulation 2021 Section 178(3)(e) authorises the General Manager to enter into negotiations with parties, whether or not they have tendered, with a view to enter into a contract for the Tender - Saunders Oval Sports Field Improvements .
3. That in accordance with the Local Government (General) Regulation 2021 Section 178(4)(a) the reason Council has declined to invite fresh tenders is that the tender process has established sufficient market interest and it is more efficient and timely to negotiate with interested parties than call for new submissions.
4. That in accordance with the Local Government (General) Regulation 2021 Section 178(4)(b), Council has determined to negotiate with parties, whether or not they have tendered, with a view to entering into a contract in relation to the subject matter.

Attachment(s)

1. Tender Evaluation - Saunders Oval Sports Field Improvements - Confidential Councillor Memorandum (Under separate cover) (Confidential)

9.15 Delivery Program and Operational Plan - 30 September 2024 Review

9.15 Delivery Program and Operational Plan - 30 September 2024 Review

Section Governance

Objective To provide the quarterly update on the implementation of the 2024/25 to 2027/28 Delivery Program and 2024/25 Operational Plan.

Background

Section 406 of the Local Government Act states as follows:

406 Integrated planning and reporting guidelines

*(1) The regulations may make provision for or with respect to integrated planning and reporting guidelines (referred to in this Chapter as **the guidelines**) to be complied with by councils.*

The Office of Local Government then issues “guidelines” in respect to how councils must comply with the integrated planning and reporting framework.

The guidelines have changed over the years, with the last publication available as per the following link:

[IPR - Guidelines \(nsw.gov.au\)](https://www.nsw.gov.au/ipr-guidelines)

Clause 4.9 (page 20) of the guidelines states as follows:

Monitoring the Delivery Program

4.9 The general manager must ensure that progress reports are provided to the council, with respect to the principal activities detailed in the Delivery Program, at least every 6 months.

Even though six-monthly reports are required, the preferred approach is to provide quarterly reports to ensure the information is timely.

This report represents the first quarterly review of the implementation of the 2024/25 to 2027/28 Delivery Program and 2024/25 Operational Plan, with the information based on the three-month period from 1 July to 30 September 2024. 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 hub.

The actions and indicators in the DPOP reflect the adopted priorities for Council. A new DPOP is prepared, publicly exhibited and adopted each year, between March and June, for the following financial year.

Key Issues

- Outcomes and trends

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.

Attachment 1 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. The actions represent tasks and projects identified as priorities by Council.
- Service Delivery Indicators – Measures actual results as compared to the adopted indicators in the Operational Plan. The indicators represent a level of activity, or performance, across a wide range of service areas, some of which are under Council’s control and others that reflect economic or industry trends.

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

There are 101 actions listed in the DPOP for 2024/25 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	18	26	47	91
Amber	2	1	6	9
Red	0	0	1	1
Total	20	27	54	101

Program Actions Summary - By Division and Percentage (%)

Division / Status	C&C	Civil	PEH	Total
Green	90	96	87	90
Amber	10	4	11	9
Red	0	0	2	1
Total	100	100	100	100

Items of interest 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, Southern Cross Industrial Estate.

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Council has resolved to hold an auction to sell nine of the 12 lots at Boeing Avenue, with that auction date yet to be confirmed.

- Progress development of Wollongbar Residential Land Holding (page 2) – Design options being prepared for the medium density housing proposal, prior to reporting back to Council.
- Participate in and leverage opportunities to market the Ballina Coast and Hinterland and Implement Destination Management Plan (pages 3 and 4) – The Tourism Team has had an exceptional year, achieving Gold in the North Coast Tourism Awards Excellence in Tourism Services, Gold for the Lennox Head Cultural Centre for Event Venue of the Year and Silver in Excellence in Innovation and Outstanding Young Business Leader

There were four other Ballina Shire finalists in the Awards, all of which received support from the Tourism Team.

- Seek approval for a non-compulsory dividend from Wastewater (page 5) – Council was unsuccessful in securing approval from the State Government (Department of Climate Change, Energy, Environment and Water – DCCEEW), for a non-compulsory dividend from the Wastewater Fund to fund additional stormwater works.

The benchmarks set by DCCEEW are not entirely clear and Council's technical staff are now reviewing the DCCEEW response to try and secure a dividend during 2024/25.

- Review Water and Wastewater Developer Contribution Plans (page 11) – The recently adopted plans will become operational from 1 November 2024 following DCCEEW approval.
- Undertake review of the Development Assessment Service (page 15) – This review has commenced.
- Implement Healthy Waterways Strategy (page 19) – A wide range of activities continue to be delivered under this strategy.
- Prepare a Movement and Place Strategy (page 21) – It is recommended that this action be deleted as it overlaps with the Public Realm Strategy (page 20), along with work being undertaken by Transport for NSW.
- Implement Strategic Plans (Wollongbar, Wardell, Alstonville and Lennox Head (page 23) – The Strategic Planning Section is currently reviewing all the actions in these plans, as a number have been completed, which may lead to further reviews of the plans.
- Complete Streetscape Master Plan for Newrybar Village (page 23) – The community consultation process has now started for this project.
- Implement Housing Strategy including Local Affordable Housing Framework (page 24) – Homes NSW (State Government Agency) has been proactively liaising with Council in respect to redeveloping State Government owned sites. This hopefully means, that after many years of inaction by the State Government, there should be an increase in the provision of social housing dwellings within the shire.

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In respect to Service Delivery, there are a total of 92 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	34	16	20	70
Amber	10	4	3	17
Red	0	2	3	5
Total	44	22	26	92

Service Delivery Indicators Summary - By Percentage (%)

Division / Status	C&C	Civil	PEH	Total
Green	77	73	77	76
Amber	23	18	12	19
Red	0	9	11	5
Total	100	100	100	100

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 26) – Operating revenue figures with passenger numbers remaining relatively steady.
- Community Facilities (pages 27- 29) – 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.
- Development Services (pages 37) – Processing times remain below the preferred targets, with some recent improvements, and the number of applications under assessment trending downwards.

One of the indicators for this report is Number of Approved Events by Council (page 38 of Attachment 1).

In respect to this indicator, Council has received an application from the operator of the Wharf Bar & Restaurant, seeking Council support to have the Council application fee amended, which is currently paid on a per event basis, for a series of events at the Lance Ferris Wharf.

Refer to Attachment 2 for details of that correspondence.

It is important to note, that even though there may be a series of events, each event still needs assessment and checking by Council staff, although efficiencies are generated when an event is duplicated.

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There is some merit in amending the fee, for multiple events, recognising that the fee applies for all commercial events across the shire, as per page 49 of Council's Fees and Charges document: i.e.

- Events on Public Land – Event Application Fee - Commercial Users - \$494 for 2024/25

There is a myriad of options available to amend the fee, and typically, there only a few instances each year, where a commercial operator wants to run a series of events.

With so many options available to adjust the fee, one option is to reduce the fee by 20%, where there are more than three events in a financial year. This proposal is included in the recommendations for this report, albeit Council may wish to further vary the percentage, or amount, of this fee.

Any change to Council's fees will need to be exhibited, for at least 28 days, as per Section 610F (3) of the Local Government Act, prior to implementation.

Resolutions from June 2024 Ordinary meeting

When Council adopted the 2024/25 to 2027/28 Delivery Program and Operational at the 27 June 2024 Ordinary meeting, several resolutions were adopted relating to matters that required a further response.

The following information responds to those resolutions.

Resolution 270624/21 - That Council install a defibrillator and surf safety kit on Council owned land at Patches Beach.

This has now been installed.

Resolution 270624/22 - That Council investigate the installation of a bus shelter on the corner of Plateau Drive and Rifle Range Road, Alstonville including modifications to improve bus access.

A bus shelter will be installed on Rifle Range Road, as part of the current Killarney Park subdivision works, at the location shown in the following image.



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Consultation has been undertaken with bus service operators regarding the proposal for bus shelters on Plateau Drive and Rifle Range.

The feedback is for shelters to be placed at the locations marked with a red x, as per the following image.



One site is adjacent to the skate park and the other is near the Wollongbar Christian Church.

These sites have been reviewed by Council's technical officers.

The site adjacent to the Church needs further assessment, including the scope for the installation of a bus bay, due to the proximity of the location to the roundabout and private driveways.

An application for funding for the skatepark site shelter, has been submitted to the State Government's Country Passenger Transport Infrastructure Grant Scheme (CPTIGS).

Notification of the outcome of this grant application is expected in early 2025.

Resolution 270624/23 - That the General Manager investigate options to provide and fund a door / windbreak on the southwest corner of the surrounding structure of the Alstonville 25m pool.

Funding has been allocated to this project with works scheduled for late October / November 2024.

Resolution 270624/24 - That Council receive a report on bushland regeneration approaches and maintenance for the Wollongbar Rainforest Reserve.

Council has several Vegetation Management Plan (VMPs) that guide bush regeneration and vegetation works undertaken by Council, and other community-based groups on behalf of Council.

9.15 Delivery Program and Operational Plan - 30 September 2024 Review

Attachment 3 to this report is a copy of the Wollongbar Reserves Vegetation Management Plan (VMP). Site 4 in the attached VMP is the area of land referenced in this resolution.

Page 19 of the VMP provides information on this reserve.

Page 43 of the VMP provides recommended actions as follows.

Recommendations

This site has been neglected for some time and requires significant investment if public use is to be encouraged. The existing walking track is poorly defined with numerous trip hazards, unsteady rocks and abrupt level changes, as well as overhanging branches and vines. A large fallen tree is blocking the track at one point and requires removal to regain access. Old platforms, bridge, fencing and timber tables are rotting in place and should be removed from the reserve as soon as practical. The bridge across the second-order stream is absent and the creek can only be crossed through difficult rock-hopping.

Creek erosion is evident following flooding in 2022 and part of the steeper banks require stabilisation through planting or engineering solutions.

Designated accesses are available into this reserve from Joindre Street, Drawn Court, Wonga Way, two entrances on Dalmacia Drive, Vain Court, Cerreto Circuit and the road reserve beyond Smith Lane.

Many of the accesses are overgrown or apparently incorporated into private lots.

- It is recommended that bushland track and trail specialists be engaged to advise and plan the track and creek crossing for longevity and ease of access. Additionally, the track vegetation requires heavy pruning and defining.*
- New reserve infrastructure such as tables, chairs and viewing platforms.*
- New bridge crossings should be investigated on the main walking track and between Dalmacia Drive and Cerreto Circuit/ Lyle Park.*
- Maintenance is required at all access points to Wollongbar Rainforest Reserve to remove and prune overgrown vegetation. Improved signage and formalized walking tracks are recommended at entrances to avoid informal tracks and trampling.*
- The central Dalmacia Drive entrance is overgrown, looks dark and uninviting and signage is not obvious. The primary rainforest reserve signage and educational/ interpretative signage is recommended at the central Dalmatia Drive entrance.*
- Significant weed control is required, and the upper open drainage area is recommended to be rock-lined to prevent further erosion and planted with species such as Sandpaper Fig, Water Gum *Tristanopsis laurina* and Giant Water Gum on edges, with *Lomandra* and water tolerant sedges such as *Juncus usitatus* and *Ficinia nodosa* along the drainage channel.*

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- *Removal of illegally dumped waste as per Plate 12 and general site clean-up is required.*
- *Removal / chopping of fallen tree to reinstate track access*

The total annual funding for Council's Vegetation Management program is approximately \$0.5m, with that funding covering the significant coastal and bushland reserves owned, or controlled, by Council.

The estimated cost of undertaking the works for this site, in the VMP, would absorb a large part of the entire annual budget.

This is the difficulty that Council faces in that limited budgets restrict the funding available for major vegetation management projects, such as this.

There is no simple answer to addressing the provision of additional funding for this VMP, except for Council to start increasing the entire Vegetation Management Program funding by figures well more than CPI. However, that then means that other services will suffer.

Ultimately it is matter for Councillors to allocate the limited resources available, and if additional funds are to be allocated to this program, an offset for that funding needs to be identified.

The next opportunity to review the overall funding, will be as part of the formulation of the 2025/26 to 2028/29 Delivery Program, 2025/26 Operational Plan and budget, from March to June 2025.

Resolution 270624/25 - That Council receive a report on a suitable site in the Ballina Shire to accommodate a disaster recovery shed.

This resolution relates to a proposal from Rotary Northern Rivers, who have advised that they have significant funding to provide a Disaster Relief Centre for the Northern Rivers.

To date there has been no documentation provided to Council in respect to how much funding is available and what conditions are attached.

Council has been provided with a concept plan, as to what the Relief Centre might look like based on designs completed for land known as the Old Depot Site, being 16 Tamarind Drive, Ballina (located across the road from Ballina Fair).

This is crown land that is partly controlled by Council, and there is also an area where Council has a licence from Crown Lands for use of the land.

Council uses this site for stockpiling material.

The concept plan for that site is included as Attachment 4.

As per that plan, the measurements for the proposed relief centre, for that site, are storage area – 225m² office and amenities 50m² and a total building area of 575m².

Approval from Crown Lands has not been forthcoming for the use of this site and the Rotary representatives have been seeking a site from Council for this relief centre.

In respect to the proposal from Rotary Northern Rivers, the key issues are:

- Lack of documentation as to the funding and conditions.
- If a Disaster Relief Centre is to be provided for the Northern Rivers, there should be a strategic approach to what is the best location in the entire region. The current proposal is promoted by Ballina representatives from Rotary, however there is no documentation on what other options have been explored across the entire region.
- This Relief Centre does not form part of any of the emergency management plans, for the Ballina Shire, or for the region.
- The State Government NSW Recovery Plan 2023 also states as follows regarding donations management.

7.8 Donations Management

7.8.1. Disasters often generate significant unsolicited donations that do not meet the specific needs of an affected community.

7.8.2. The management of unsolicited donated goods can divert valuable resources away from other critical recovery activities. Emergency management, local councils and recovery agencies should actively discourage material donations, as they require extensive logistical management and can reduce the capacity of a person's ability to manage their own recovery.

7.8.3. The NSW Government recommends monetary donations as a preferred method of support as it provides disaster-affected people with more flexibility and choice over their recovery and ensures funds are delivered where they're needed most.

7.8.4. The NSW Government has engaged a contractor to support donations management during disasters. Inquiries about the management of donations can be referred to the RA

As per this commentary, the State Government preference is for monetary donations, and they have a preferred contractor to support donations management.

Community led activities represent a significant contribution to the recovery process and this is encouraged.

There are many welfare and community organisations involved in the management and distribution of donated goods.

However, prior to Council committing significant resources, or assets, to donation management infrastructure, Council should determine an overall strategy for the coordination and delivery of these services through consultation with the NSW Reconstruction Authority, the Department of Communities and

9.15 Delivery Program and Operational Plan - 30 September 2024 Review

Justice (as the agency responsible for community welfare in recovery) and all the key community stakeholder groups involved.

This approach would ensure there is agreement, in respect to the role of the proposed facility, in a disaster.

Council should also be mindful that by the time of the next disaster, it is likely the capacity of the Federal and State Governments will be different to previous arrangements.

For example, the National Emergency Management Agency (NEMA) has recently created the National Emergency Management Stockpile.

This stockpile involves the Government building up supplies such as shelters, sandbags, power generators etc, as a back up to supply chain failures, during a disaster.

The stockpile also includes procurement panels, with disaster supply contracts, for goods and services needed by communities managing disasters.

The national stockpile highlights the role of the Federal and State Governments, as the levels of government responsible for recovery planning and delivery.

There is also an emerging increase in capacity and maturity in the way these services are delivered, and this will continue.

Therefore, any investment in infrastructure by Council, needs to be considered in this context.

Based on this background information, the recommendation for this report is to refer the Rotary Northern Rivers Disaster Relief Centre to the NSW Reconstruction Authority, to seek their direction on this proposal.

This then ensures there is a co-ordinated approach.

However, if the preference is still to locate a Council site for this facility, there are limited, or effectively no options available, as the Rotary representatives and Council staff have been trying to locate a suitable site for several months, with no site identified to date.

Council is constantly asked by community groups for locations to install storage sheds and unfortunately most of the requests are declined due to the limited options available.

One of the more recent examples of this was the Lennox Head Lions Club, where Council provided approval for the Club to expand their storage space onto the road reserve at the Skennars Head Sports Fields.

Approval for use of the road reserve is not an approval normally given, as the reserve forms part of the road corridor, however the elected Council provided approval due to there being no other viable option.

Council land at Gap Road, Alstonville, where the Council nursery, sports fields and dog park are located, has also had community storage space located on the site, however there is no longer any space available.

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A key consideration for the preferred location for the Relief Centre, is that it is for disaster storage for goods and consumables, therefore there will be lengthy periods of time when the centre is not in use.

Preferably this should mean that it is located on a site that does not have a high demand for day-to-day use, as high demand land should provide a service that generates frequent use.

One of the sites mentioned for this Relief Centre, is land owned by Council at Hutley Drive, Lennox Head, where at the August 2024 Ordinary meeting, Council adopted the following resolution.,

Resolution 220824/19 – Point 2 - That Council receive a report on future options for use of the land on the corner of Byron Bay Road and Hutley Drive.

Council purchased this land to provide the connection from Hutley Drive to Byron Bay Road, with the residual portion then allocated to the new Lennox Head Rural Fire Service shed.

Council also had plans to assist a local community pre-school group to build a new pre-school on the site, however this proposal has now been withdrawn, primarily as the new Lennox Head Primary School in the EPIQ Estate, includes a pre-school on that site.

One of the difficulties with the Council owned Hutley Drive land, is that with the construction of the RFS shed, which had difficulties obtaining planning consent due to environmental constraints, there is limited space still available on the site.

Attachment 5 to this report is the approved plan, for this site, for the RFS shed.

There is potentially enough room, on this site, for the Relief Centre, depending on scale and size of the building, however there are also opportunities for this site that would potentially generate more community benefit through the day-to-day use of the site.

Opportunities that could be considered by Council include:

- Community Storage Sheds – As mentioned, Council is continually being asked to provide storage sheds for community groups and Council could potentially construct sheds on the site to then allocate to community groups.

It might even be possible to have a mixture of commercial and community-based sheds, to help finance the maintenance and management of the sheds.

- Police Station – This option was debated by Council at the August 2024 Ordinary meeting, with the majority of Councillors not supporting that proposal.
- Return and Earn – Council has been approached by Tomra (commercial operator of the return and earn facilities) to find a new site for a return and earn facility. A site in Lennox Head is the preferred location for this second facility.

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Finding a suitable site for this facility has been very challenging and this proposal would help to generate a revenue stream for Council.

The Byron Bay Road / Hutley Drive site, is Council operational land, funded through Council's commercial property activities.

As operational land, there is no restrictions on the use of the land (other than the normal planning constraints).

With Council not supporting the Police Station proposal at the August 2024 Ordinary meeting, the preferred approach is to examine the viability of providing a combination of the return and earn facility, and storage sheds on site, subject to further reporting to Council.

This is included as a recommendation to this report.

Resolution 270624/26 - That Council investigate options to increase the recurrent funding allocated to sports field asset renewal from \$200,000 to \$400,000 per annum.

A council budget has two main components, funding for recurrent service delivery and funding for capital expenditure, with the capital expenditure being for asset renewal or for new assets.

A key financial principle is that a council should be renewing existing assets, prior to allocating funding to new assets, as otherwise the existing assets will deteriorate resulting in asset failure and increased maintenance.

All councils struggle with ensuring there is enough funding for asset renewal, with one benchmark being that the funding allocated to asset renewal should be at least equal to the annual depreciation expense.

The theory being that as depreciation represents a reduction in the value of an asset over time, due to wear and tear, provision should be made to fund that depreciation expense each year.

With Council's rate income comparably low to many councils, there are significant shortfalls in the funding allocated on a recurrent basis for asset renewal for the major infrastructure classes.

This was highlighted in a report on the draft Community Infrastructure – Recurrent Capital Works Program, to the 9 April 2024 Finance and Facilities Committee meeting, which included the following table, and commentary.

Annual Estimated Depreciation and Estimated Funding Summary (\$'000)

Description / Asset Class	Depreciation Estimate	Recurrent Funding
Cemeteries (1)	22	N/A
Open Spaces – Playgrounds, fencing, signage	1,400	800
Sports Fields – Buildings and other infrastructure	800	216
Public Amenities	60	160
Stormwater	1,700	900
Roads	9,000	7,000
Ancillary Transport	280	150
Footpaths and Shared Paths	760	546

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Description / Asset Class	Depreciation Estimate	Recurrent Funding	
Ferry	28	0	
Emergency Services	150	0	
Landfill – Plant and Remediation (1)	1,200	N/A	
Domestic Waste – Plant and Equipment (1)	0	N/A	
Commercial Property (1)	75	N/A	
Flat Rock (1)	24	N/A	
Ballina – Byron Gateway Airport (BBGA) (1)	1,297	N/A	
Quarries – Depreciation and Remediation	210	N/A	
Community Buildings (Halls, Childcare Centres, Cultural Centres, Surf Clubs etc)	650	1,230	
Libraries	250		
Swimming Pools	420		
Tourism	20		
Administration Centre and Depots	1,350		
Animal Pound	10		
Gallery	46		
<i>Sub Total Community Buildings</i>	<i>2,746</i>		
Plant Operations (1)	1,450		N/A
Sub Total – General Fund	21,202		16,603
Water (1)	1,880	N/A	
Wastewater (1)	4,600	N/A	
Total – Consolidated Operations	27,682	27,126	
Total – Excluding Business Operations	16,924	11,002	

No recurrent funding from General Revenue is needed for Cemeteries, Landfill, Domestic Waste, Commercial Property, Flat Rock, BBGA, Plant Operations, Water and Wastewater (all marked with a (1)) as these business activities can rely on the operating surplus, excluding depreciation, for the business to reinvest back into asset renewal. All these items are distinct business activities with Council able to determine its own pricing.

Items such as the Cemeteries, Commercial Property and Flat Rock provide a dividend to the General Fund, as the operating surplus is sufficient to fund asset renewals and pay a dividend.

The BBGA has a significant cash surplus however that surplus is funding a large loan debt and new infrastructure.

Plant Operations is also currently making a relatively large cash operating surplus, albeit this is based on an internal charging structure and reflects increased replacement costs for plant purchases.

The \$7m estimate for roads recurrent funding is based on Council recurrent revenue plus recurrent grants such as the Roads to Recovery Program.

The highlighted bottom line is the depreciation expense, excluding business activities, matched with the total recurrent revenue.

As per these figures, the difference in recurrent funding and the depreciation expense is approximately \$6m per annum.

Often Council will secure grant funds to assist with the renewal of assets, however it is this major gap in asset renewal funding, which remains the biggest financial risk to Council, as it can result in asset deterioration in the long term.

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The major funding gaps highlighted in this summary are stormwater, roads and community buildings / facilities, which includes the animal pound, community gallery, libraries, swimming pools, emergency services (SES and Marine Rescue), cultural centres (Lennox Head and Alstonville), Ballina Indoor Sports Centre, Surf Clubs etc.

As per this commentary, the shortfall in recurrent funding for asset renewal is close to \$6m per annum, with the major funding shortfalls in open spaces, sports fields, stormwater, roads and community buildings. There are regular grant programs for road works, however infrastructure such as playground renewal, sports field buildings, stormwater and community buildings do struggle to secure grant funding.

In respect to the resolution asking for asset renewal for sports fields to be increased from \$200,000 (currently \$216,000) to \$400,000 this reflects the numerous sporting groups who are seeking funding from Council to either renew, or expand, their existing facilities or looking for new facilities.

The depreciation expense of \$800,000 reflects existing facilities and numerous clubs are seeking expansion or new facilities.

The current funding allocation and ongoing pressure on service delivery in this area is illustrated by aspirational requests from sporting groups as per the following summary.

Details	Estimates (\$'000)
Sporting clubhouse (including netball) – Kingsford Smith Reserve	2,000
Netball show court – Kingsford Smith Reserve	250
Sporting Clubhouse (including senior rugby league) – Kingsford Smith Reserve	3,000
Reserve enhancements – Kingsford Smith Reserve Master Plan	5,000
Missingham Park Skate Park Expansion	1,000
Cawarra Park Master Plan	2,250
Mountain bike trail additions – Stokers quarry	50
Multi-purpose courts (Ballina and Lennox Head)	350
Saunders Oval – clubhouse, amenities and storage	2,000
Fripp Oval – clubhouse, amenities and storage	2,000
Skennars Head playing fields clubhouse expansion	2,000
Skate Park - Alstonville	1,000
Squash Courts	2,000
Additional croquet courts (Ballina)	1,500
Additional croquet court (Alstonville)	300
Additional pickleball courts	750
Additional indoor courts	25,000
Athletic track and seating (tartan track) – regional level facility	10,000

This is a guide only and it helps to highlight the priorities being sought by the community.

With limited recurrent funding, that ideally needs to be expended on renewal of existing assets, there are limited opportunities available, other than seeking grant funding for major projects.

Council's current level of recurrent revenue is fully allocated to operational services, or capital expenditure, therefore if funding is to be increased for one asset class, such as sports fields, funding needs to be reallocated from another

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asset class or alternatively Council needs to find savings in existing operational services.

Ultimately this is a matter for Councillors to determine overall service levels, therefore if sports field funding is to be increased, then a decision needs to be made as to which asset class, or service, the funding is to be sourced from.

With limited funding, the reallocation from another asset class is not recommended from a financial perspective, as there is no obvious area where there is a surplus of Council funding allocated.

There are always ongoing improvements to operational efficiencies however typically they do not result in significant cash savings, but rather result in improved service delivery.

Council may well wish to reduce costs in certain areas; however, the difficulty is that many of the benchmarks for Council demonstrate that Ballina Shire operates with below average staff numbers placing ongoing pressures on staff.

For example, the State Government's council comparison website (yourcouncil.nsw.gov.au), which provides a series of benchmark information for all NSW councils confirms that the latest available population per full time staff equivalent figure for Ballina Shire is 137, compared to the group average (i.e. similar councils) of 107. These figures are for 2022/23.

Several other indicators on that site, such as rate income, are also well below average, limiting the opportunities for savings in operating expenses to help fund increased capital expenditure.

Based on this the only other viable option is to increase revenue.

Council's rate income is low on a comparable basis, as demonstrated through the following table for councils in this region, from the Yourcouncil website.

Comparable Rate Income – Northern Rivers

Council	Residential (\$)	Business (\$)	Farmland (\$)
Ballina	1,163	3,642	1,827
Byron	1,438	3,691	2,656
Clarence	1,260	3,143	1,696
Kyogle	1,150	1,432	2,024
Lismore	1,353	4,326	2,540
Richmond	1,182	3,187	1,937
Tweed	1,572	2,972	2,307

Residential rate income typically represents around 75% of the total rate income received by a regional council.

Often there is confusion over rate income and the total rates and charges bill issued by a council, with the following table highlighting the total bill for an average residential property for 2024/25 for councils in the region.

This information formed part of the exhibition of Council's draft Delivery Program and Operational Plan for 2024/25.

Total Residential Rates and Charges Bill – 2024/25

Residential Property	Ballina	Byron	Clarence Valley	Coffs Harbour	Kyogle	Lismore	Richmond Valley	Tweed
Average Residential Rate	1,271	1,618	1,394	1,409	1,271	1,415	1,295	1,694
Stormwater	25	25	25	25	111	25	25	0
Water Access (20mm)	250	237	145	166	522	369	213	210
Water Consumption (150kl)	423	542	443	533	333	754	488	588
Wastewater	1,074	1,563	1,327	1,083	998	1,013	1,254	961
Waste Management (240L bins plus levies)	448	834	462	720	750	646	733	568
Total	3,491	4,819	3,796	3,835	3,985	4,222	4,008	4,021
Ballina % Comparison	100%	138%	109%	113%	114%	121%	115%	115%
Residential Rate Income Difference (18,000 assessments)		6,246,000	2,214,000	2,484,000	0	2,592,000	432,000	7,614,000

As per these figures, Ballina’s total residential bill (on an average basis), is well below all councils in the region.

The bottom line (Residential Rate Income Difference) represents the additional rate income Council would receive if it had the same average residential rate income as each of the councils listed.

For example, if Council had the same average residential rate as Byron Shire, we would generate an additional \$6.24m in rate revenue each year, which would fund the entire shortfall in the recurrent funding currently available as compared to the depreciation expense.

In summary, there is again no straightforward option to increase funding for sports fields, unless Council wishes to deduct funding from another asset class such as roads, footpaths etc.

This is not recommended, as the other areas are already underfunded.

Resolution 270624/27 -That Council engage an independent consultant to assess options that could be implemented to improve development assessment times.

A consultant has been engaged and this project is well advanced.

In addition to the June 2024 resolutions, Council adopted the following resolution at the December 2023 Ordinary meeting:

Resolution 141223/7

That, with a view to enhancing food security by increasing opportunities for small-scale food production in the Ballina Shire, Council:

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1. *Conduct an audit of disused Council owned or managed land that may be suitable for small-scale food production, and pending identification of suitable sites, provide further information on the feasibility of Council providing affordable leases to individuals or co-operatives capable of producing food for local markets.*
2. *Write to the Hon Tanya Moriarty, Minister for Agriculture and Minister for Regional NSW, requesting that the government deliver their overdue response to the Legislative Assembly Committee on Environment and Planning's 2022 Inquiry into Food Production and Supply in NSW.*

In relation to point 1, an audit has been completed with the following key findings:

- There is a lack of Council owned land of suitable size and topography to facilitate food production
- Sites of suitable size that had potential for use often were constrained (Tamarind Drive). These constraints included the frequency of inundation during periods of rainfall, topography and overall quality of the land.
- Cawley Park, Alstonville was identified as a site for potential use as a community garden, should demand arise, in line with Council's Community Gardens Policy.

In relation to point 2, Council received a response from the Deputy Director general of the NSW Department of Primary Industries in June 2024 (refer to Attachment 6, which was published in the Councillor Bulletin dated 14 June 2024).

Similar to earlier sentiments in this report, Council does not have a surplus of land available for projects such as storage sheds, agriculture etc and there is no land readily available for alternate uses.

Council's own land holdings are limited and typically in commercial or residential areas.

As part of the induction program for this term of Council, an inventory of Council owned or controlled land can be provided to Councillors, to assist in determining whether the current Council would like to investigate alternate or different uses for existing land holdings.

Delivery Program Strategy / Operational Plan Activity

This report provides a status report on all the adopted activities in the 2024/25 Operational Plan and 2024/25 to 2027/28 Delivery Program.

Community Engagement Strategy

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

Financial / Risk Considerations

9.15 Delivery Program and Operational Plan - 30 September 2024 Review

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

Options

The report is primarily for noting the implementation of the Delivery Program and Operational Plan, with the information highlighting the many activities undertaken by Council.

There are also several recommendations relating to other matters raised as per the information section of this report that require further action.

RECOMMENDATION

1. That Council notes the contents of this final review on the implementation of the 2024/25 to 2027/28 Delivery Program and 2024/25 Operational Plan.
2. That Council approves the deletion of Movement and Placement Strategy from the Delivery Program and Operational Plan actions for 2024/25, as this is duplicated by the Public Realm Strategy and work being undertaken by transport for NSW.
3. That Council approves the exhibition, as per Section 610F (3) of the Local Government, of a change to the Events on Public Land – Event Application Fee for Commercial Users, which is currently \$494 for 2024/25, to allow the fee to be reduced by 20% when there are more than three events held in a financial year by a commercial operator.
4. That Council refer the proposal for a Disaster Relief Centre, from Rotary Northern Rivers to the NSW Reconstruction Authority, to ensure that a regional, and whole of government, perspective is obtained on the facility and the preferred location.
5. That Council receive a report on the feasibility of providing a return and earn facility, and community storage sheds, on the Council owned land on the corner of Byron Bay Road and Hutley Drive, Lennox Head.

Attachment(s)

1. Delivery Program and Operational Plan - 30 September 2024 Review (Under separate cover)
2. Wharf Bar and Restaurant - Application Fees [⇒](#)
3. Wollongbar Reserves Vegetation Management Plan (Under separate cover)
4. Rotary Northern Rivers - Disaster Relief Centre Concept [⇒](#)
5. Lennox Head - Rural Fire Service Shed - Approved Plans - Hutley Drive and Byron Bay Road [⇒](#)
6. Response - DPI - Food Security and Urban Agriculture [⇒](#)

9.16 Capital Expenditure - 30 September 2024 Review

9.16 Capital Expenditure - 30 September 2024 Review

Section Governance

Objective To provide an update on the implementation of the 2024/25 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 on the capital projects 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 first report for 2024/25 and outlines work undertaken for the three-month period from 1 July 2024 to 30 September 2024.

The report provides an opportunity for Councillors to review the works program and clarify the nature of works planned or underway.

Key Issues

- Status of works

Discussion

To assist in understanding the delivery of the capital expenditure program, the attachments to this report provide information on the following items:

- Total Project Value – As projects can be delivered over more than one year, this column identifies the total project value. This may include expenditure from previous years or estimated expenditure for future years.
- Original 2024/25 Estimate - Represents the original 2024/25 estimate as per the adopted Operational Plan.
- Carry Forwards - Includes budgets carried forward from the previous financial year, approved by Council at the August 2024 Ordinary meeting.
- Approved Variations – Includes variations approved by Council, through a Quarterly Budget Review, or a separate report on a project.
- 2024/25 Estimate - Sum of the original estimate plus any variations.
- Expended This Year - Expenditure to 30 September 2024 on a cash basis. This figure excludes commitments and accruals.
- % Expended - Percentage of budget expended to 30 September 2024 based on the cash expended figures.
- Milestone Dates - Major milestone dates 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, Tourism) and the Civil Services Division (Emergency Services, Resource Recovery, Water, Wastewater and Engineering Works).

Points of interest in the attachments are as follows.

Open Spaces (Attachment 1)

Ballina Pump Track – Tenders now closed for this project. Dependent on the scope of works Council wishes to see completed, the budget will need to be revised upwards. This project will be subject to a separate tender report to Council.

A playground upgrade at Chickiba Park has been completed and is operational.

Following adoption of a preferred concept plan, an updated planning approval is now being sought for the Sharpes Beach Master Plan, to allow tenders to be called. Based on the total scope of the master plan, this project will also require a future budget adjustment.

Budget adjustments are required for the Swift Street Park – Basketball Surface and Ballina Heights Sports Field – Playground projects, with the adjustments funded from a reserve held for open spaces renewal projects.

These two projects were originally funded through the Federal Government's Local Roads and Community Infrastructure (LRCI) grants program and the expenditure represents a carryover from 2023/24.

Public and Environmental Health (Attachment 1)

The Teven Reserve Rehabilitation project is well advanced and now reflects a significance difference from when the land was used largely as a dumping ground for obsolete equipment.

The Animal Shelter and Off Leash Exercise Area projects are grant funded projects, with some expenditure carried over from the previous financial year.

The budget adjustments are funded from internal reserves.

Commercial Services (Attachment 2)

Airport – The \$20m runway overlay works are largely complete. Design options are being reviewed for the car park expansion and it is recommended that \$2m be deferred to 2025/26 based on forecast cash flows.

It is intended to review the entire Long Term Financial Plan for the Airport during the next quarter, as a significant number of projects need to be programmed, and it is important that Council determine the project priorities.

Property – Southern Cross Industrial Estate works complete (12 lots on Boeing Avenue) and the Russellton Industrial Estate works are well advanced (27 lots at southern end of Northcott Crescent).

Council has resolved to sell nine of the 12 Southern Cross lots by auction, with that auction date still to be confirmed.

Further design options are being prepared for the Wollongbar Housing Project.

Reports on the Wollongbar Housing Project and the Russellton Industrial Estate are scheduled for a Commercial Services Committee meeting in December 2024.

Facilities Management (Attachment 2)

The Ballina War Memorial swimming pool solar project is complete with options now being examined for energy efficiency improvements at Alstonville.

As a result of the Capital Expenditure – 30 June 2024 report to the 25 July 2024 Ordinary meeting, Council resolved as follows:

Resolution 250724/29.

- 1. That Council notes the contents of this report on the delivery of the 2023/24 capital expenditure program.*
- 2. That Council write to the Office of Local Government to seek guidance on possible improvements to Council procurement procedures where a conflict of interest exists with a sitting Councillor.*

This resolution arose as a sitting Councillor had an interest in the business that secured the solar panel contract for the Ballina swimming pool.

The Office of Local Government has now provided a response to point 2 of this resolution, as per Attachment 7 to this report.

The key points from that correspondence are:

- it is inevitable that, at some point in time, situations will arise where councillors engage with their council as business owners
- where that occurs, what is critical, is that councillors do not have any involvement in the decision making
- the cost of undertaking a tender would have vastly outweighed any probity benefit offered (the contract value was approximately \$70,000)
- any concerns about wrongdoing by councillors, should be raised through the Procedures for the Administration of the Model Code of Conduct

The Office of Local Government has not recommended any changes to Council's procurement procedures.

In respect to the remaining works, within the Facilities Management Section, the Wigmore Hall Car Park resealing has been completed and the major project commenced during the quarter, is the construction of the Depot Administration building, which has a total project value more than \$7m.

There are also some relatively minor budget adjustments, offsetting each other, or funded from reserves.

Emergency Services, NEWLOG and Resource Recovery (Attachment 3)

Construction of the Lennox Head Rural Fire Service shed is complete and operational.

Planning approval is still to be obtained for the new Ballina SES Building, with the construction of that building currently unfunded.

NEWLOG is the North East Weight of Loads Group (NEWLOG), where Council manages the vehicle weighing program, including the employment of staff, for the majority of councils in northeastern NSW.

The timing of the Front of House works for the Resource Recovery Centre has been pushed back, resulting in the deferral of \$1m to 2025/26.

Water and Wastewater Operations (Attachments 4 and 5)

The major change to Water Operations is the deferral of the Norton Street main renewal works to 2025/26, based on the forecast works program.

There are other relatively minor budget changes based on actual, or forecast, expenditures. These adjustments are funded from reserves held for Council's Water Operations.

In respect to Wastewater Operations, the pumping station and switchboard renewal program is well ahead of schedule, resulting in a total budget increase of \$484,000.

Wastewater cash reserves are more than \$32m, as at 30 June 2024, which ensures there are more than sufficient funds available to finance this additional renewal work.

The major variation is the bringing forward of \$3.4m for the Ballina Wastewater Treatment Plant (WWTP) rectification works, as the contractor is well ahead of schedule.

This project has a total value of approximately \$9m and relates to the rectification of all outstanding defects, at the Ballina WWTP, to ensure the generation of recycled water of a quality fit for supply into Council's existing wastewater reuse scheme. The project has a lengthy history relating to the update of the Ballina WWTP in 2011, which resulted in failures in the recycled water quality.

The project is funded from a range of sources including insurance monies, costs reimbursed through legal action, developer contributions and reserves.

The three other major variations listed for Wastewater Operations are:

- Ballina WWTP – Access Road - \$140,000 – New project due to the poor condition of the current access road
- Lennox Head WWTP – Chlorination Renewal - \$518,000 – Additional funding to reflect the contract price
- Lennox Head WWTP – Belt Press - \$400,000 – Additional funding reflects market responses.

Engineering Works (Attachment 6)

Projects of note include:

Wardell Town Centre – Council has accepted a tender for this project with the contract having commenced works.

Safer Roads – Byron Bay Road / Ross Lane – This grant funded project has now been completed. The over-expenditure is funded from an internal reserve held for improvements to roads connected to the Tintenbar to Ewingsdale Highway Bypass.

Ross Lane – Betterment – Pre-planning is still underway for this project and based on forecast cash flows, \$2m is deferred to 2025/26.

Reedy Creek Road works have been deleted from the Regional Emergency Road repair grant program.

The Cawley Close to Main Street, Alstonville footpath, which was funded largely through the State Government's Get Active grant program, has a significant increase in the budget funded in part through an increase in the grant funding.

The scope of works for this project was adjusted to improve the overall alignment and width of the path based on pedestrian movements.

The total grant funding was increased by approximately \$135,000 from \$674,452 to \$809,342, with the balance of the \$223,000 budget adjustment, being \$88,000, funded through a transfer from an internal reserve held for footpaths / shared path renewal projects.

The renewal of the Tamar Street Bus Shelter is close to being finalised and based on the latest estimates, the budget needs to be increased by \$170,000.

This project, which has a total value of \$1.67m is funded through:

- Federal Government's Local Roads and Community Infrastructure Program – Round 3 \$400,000 and Round 4 \$900,000.
- State Government Country Passenger Transport Infrastructure Grant (CPTIG) - \$211,000
- Council's Roads Contingency Reserve - \$159,000.

The budget adjustment is funded through the Roads Contingency Reserve transfer and an \$11,000 adjustment to ensure the grant income reflects the amounts approved.

There are three major landslip projects now included in the overall works, with the works relating to the 2022 floods.

Council has finally obtained State Government approval through the Essential Public Asset Reconstruction (EPAR) program for these projects, with the Teven Road project having a total estimate of \$7.45m.

The works are funded in fully by the State Government, with Teven Road having \$250,000 allocated in 2024/25 and the balance of \$7.2m, in 2025/26.

Engineering Works - Ambrose Lane – Parking Improvements

At the July 2024 Ordinary meeting, Council considered a Notice of Motion to improve the parking in Ambrose Lane, Alstonville, subsequently resolving as follows:

That Council receive a report to detail options and costings that will assist the current parking and traffic congestion issues related to Green Street and Ambrose Lane, Alstonville.

The concerns relating to this location followed the development of dual occupancy accommodation at 14 and 16 Ambrose Lane.

This development has been the subject of a Council compliance investigation.

In response to this investigation, 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.

The outcome of the planning assessment was determined on 4 October 2024 by way of refusal meaning the 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.

Reducing the number of dwellings will reduce the demand for on street parking generated by the development.

Attachment 8 to this report provides a concept design to install kerb and gutter for the length of the lane.

The scope of works in this design, includes shoulder pavement work, driveway adjustments, some stormwater pipe extensions and the kerb and gutter.

A preliminary cost estimate is approximately \$60,000.

The purpose of this design is to widen the road pavement so that parallel parking can be implemented in a consistent and formal manner.

In respect to parking controls, there is an existing no parking restriction that applies on one day of the week, to facilitate the kerbside waste collection service.

The July Notice of Motion proposed the prohibition of long-term parking, however that was not included in the final resolution.

Time limits are effective at increasing the parking capacity in town centres, or other busy locations.

Allocating sufficient regular enforcement of parking restrictions in residential streets is problematic and often inefficient.

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Furthermore, restrictions in a lane like this, will potentially displace the parking to other adjacent locations, impacting on the amenity and parking capacity of those areas.

Support for parking restrictions in residential areas often softens, once residents are fully informed on the tradeoff between the existing level of access to their property, when compared to the level of amenity, or other benefits, provided by the parking controls.

Since the July 2024 resolution, staff have been monitoring the accessibility of Ambrose Lane.

Generally, during the day, there are no issues, with very few vehicles parked in the lane. Certainly, after the end of the working day, the level of congestion increases. Staff have not observed access being fully denied.

The scope of the concept design will improve the presentation and amenity of the lane, as well as assisting to improve the parking management.

The project is considered viable, based on the estimate cost compared to the benefit derived in improved infrastructure.

If Council wants to prioritise this project, it is appropriate to delete or defer a project from the current program.

The Urban Roads program is not recommended, as the recurrent funding for that program, is constantly under financial pressure.

Table 1 is the construction program for the urban footpaths and shared paths, which is considered the more appropriate source of funds for this proposal. The projects listed are not yet commenced.

Table 1 - Urban Footpaths and Shared Path Program (\$)

Description	2024/25	2025/26
William Street, Lennox Head Z(complete)	50,000	
Camoola Avenue, Ballina	12,000	
Skennars Head Road (Refuge)	15,000	
Jameson Avenue, Ballina	160,000	
Anderson Street, Ballina	5,000	
Cawarra Street, Ballina	60,000	
Stewart Street, Lennox Head	100,000	
Martin Street / Fox Street, Ballina	10,000	
Horizon Drive, Ballina	81,000	29,000
Angels Beach Drive, Ballina/East Ballina (bike plan)		100,000
Mellis Court, Alstonville		160,000
Moon Street, Ballina		15,000
Shelly Beach Road, Ballina		5,000
Castle Drive, Lennox Head		20,000
Bonview Street, Ballina		125,000
Tanamera Drive, Alstonville		11,000
Westland Drive, Ballina		95,000

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If Council wants to include Ambrose Lane in 2024/25, the preferred option would be to defer Horizon Drive, Ballina (\$81,000) to 2025/26, as this project is spread over the two financial years.

This would then require further adjustments to the forward program when adopting the next Delivery Program and Operational Plan in June 2025.

This adjustment has not been included in the recommendations, as the preference is to continue to monitor the parking demand in the lane now that the development applications have been refused, as this may result in a reduction in the current traffic and parking concerns.

Delivery Program Strategy / Operational Plan Activity

The Operational Plan includes the entire capital works program and references infrastructure delivery through the following Operational Plan Activity:

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 project.

The following table provides the individual budget adjustments outlined in the attachments to this report.

Table 2 – 30 September 2024 - Capital Expenditure – Budget Variations

Item	Current Budget	Variation	Revised Budget	Comment
Open Spaces – Playground Equipment and Embellishments				
Swift Street Park, Ballina	0	12,000	12,000	Carry over projects - Trans from Open Spaces Renewals Reserve
Ballina Heights Sports Fields	0	15,000	15,000	
Sub Total – Open Spaces	0	27,000	27,000	
Public and Environmental Health				
Animal Shelter Improvements	0	20,000	20,000	Carry over - Trans from Public Order Reserve
Off Leash Exercise Area	0	35,000	35,000	Carry over - Trans from Public Order Reserve (\$25,000), Trans from Coastal Mgmt Plan Reserve (\$10,000)
Teven Reserve	456,000	44,000	500,000	Revised budget - Trans from Healthy Waters Program Reserve
Sub Total – Public and Env	456,000	99,000	555,000	
Commercial Services				
Airport – Car Park	2,500,000	(2,000,000)	500,000	Defer to 2025/26
Sub Total – Commercial Servs	2,500,000	(2,000,000)	500,000	

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Item	Current Budget	Variation	Revised Budget	Comment
Facilities Management				
Alstonville Pool	51,000	(4,000)	47,000	Saving - Transfer to Ballina
Ballina Pool	28,000	4,000	32,000	Transfer from Alstonville
LHCC – Fire Repairs	00	32,000	32,000	Insurance Payment
Admin Centre – 71 Tamar Street	0	25,000	25,000	Carry over - Trans from Property Reserve
Public Amenities – Compton Dv	10,000	(10,000)	0	Planning only - Trans to Strategic Plan Reserve
Sub Total – Facilities Mgmt	89,000	47,000	136,000	
Resource Recovery				
Front of House	1,600,000	(1,000,000)	600,000	Defer part to 2025/26
Sub Total – Res Recovery	1,600,000	(1,000,000)	600,000	
Water Operations				
Main Renewals – Nth Ck Pressure Zone	185,000	65,000	250,000	Budget increase - Trans from Reserve
Main Renewals – Temple Street	0	26,000	26,000	Transfer from Reserve
Main Renewals – Norton Street	400,000	(390,000)	10,000	Defer to 2025/26
Main Renewals – The Avenue	60,000	(60,000)	0	Transfer to Reserve
Main Renewals – Norlyn Avenue	0	60,000	60,000	Transfer from reserve
Sub Total – Water Operations	645,000	(299,000)	346,000	
Wastewater Operations				
Pump Stations – Renewals	466,000	234,000	700,000	Budget increase - Transfer from Reserves
Pump Stations – Switchboards	500,000	250,000	750,000	Budget increase - Transfer from Reserves
Pump Station – Kellianne Cres	52,000	(25,000)	27,000	Saving- Transfer to Reserves
Pump Station – Lindsay Avenue	0	100,000	100,000	New project - Trans from Reserves – also \$1m in 2025/26
Midden Site – Cronulla Street	40,000	(40,000)	0	Saving -Transfer to Reserves
Treatment – Ballina Rectification	3,400,000	3,400,000	6,800,000	Bring forward from 2025/26
Treatment - Ballina Access Road	0	140,000	140,000	New project – Trans from Reserves
Treatment – Lennox Chlorination	307,000	518,000	825,000	Revised budget – Trans from Reserves
Treatment – Lennox Belt Press	50,000	400,000	450,000	Revised budget – Trans from Reserves
Sub Total – Wastewater Ops	4,815,000	4,977,000	9,792,000	
Engineering Works				
Urban Roads				
Reseals Urban	549,000	(34,000)	515,000	Trans to Wardell Town
Wardell Town Centre	1,266,000	34,000	1,300,000	Revised budget
Kerr Street, Ballina	107,000	73,000	180,000	Trans to Russell Street
Russell Street, Ballina	318,000	(73,000)	245,000	Trans from Kerr Street
Burnet Street, Ballina	340,000	30,000	370,000	Trans from Fox Street
Fox Street, Ballina	495,000	(30,000)	465,000	Trans to Burnet Street
Rural Roads				
Tintenbar to Ewingsdale	100,000	(100,000)	0	Cancelled – Trans to Ross Lane
Safer Roads – Ross Lane	0	280,000	280,000	Trans from above project and \$180,000 from Tintenbar to Ewingsdale Reserve
Ross Lane – Betterment	3,809,000	(2,000,000)	1,809,000	Defer to 2025/26
Reedy Creek Road	296,000	(296,000)	0	Project cancelled

9.16 Capital Expenditure - 30 September 2024 Review

Item	Current Budget	Variation	Revised Budget	Comment
Dust Seal				
Phillips Lane	62,000	61,000	123,000	Revised budget – Trans from Bridges Other
Bridges				
Other	224,000	(106,000)	118,000	Saving – Trans to Phillips Lane and Chickiba Drive Footpath
Footpaths and Shared Paths				
Green Street, Alstonville	0	11,000	11,000	Trans from Footpaths Reserves
Chickiba Drive, Ballina	0	45,000	45,000	Trans from Bridges - Other
Cawley Close, Alstonville	177,000	223,000	400,000	Increase in grant funding and balance of \$88,000 from Footpaths Reserve
Gibbon Street, Lennox	0	11,000	11,000	Trans from Footpaths Reserve
Ancillary				
Tamar Street Bus Shelter	1,224,000	170,000	1,394,000	Revised estimate – Trans from Roads Contingency Reserve of \$159,000 and balance from grant funds
Landslip – Teven Road	0	250,000	250,000	EPAR funding approved - \$7.2m in 2025/26
Landslip – Towalbyn Place	0	228,000	228,000	EPAR funding approved
Landslip – Duck Creek Mountain	0	67,000	67,000	EPAR funding approved
Sub Total – Eng Works	8,967,000	(1,156,000)	7,811,000	

Options

This report provides an overview of the implementation of the 2024/25 capital expenditure program.

Cash expenditure to 30 September 2024 is approximately \$12m on a cash basis, out of a total budget of \$87m, as per the following summary.

**Table 3 - Capital Works Summary by Section and Division
30 September 2024 (\$'000)**

Section Results	Budget (\$)	Expended (\$)	% Expended
Open Spaces	7,998,000	735,900	9%
Public and Env Heath	1,055,000	532,800	51%
Commercial Services	6,901,000	940,600	14%
Facilities Management	8,725,000	1,300,200	15%
Tourism	151,000	800	1%
Asset Mgmt and Emergency Services	540,000	232,600	43%
Resource Recovery	973,000	12,600	1%
Water Operations	5,255,500	692,100	13%
Wastewater Operations	17,218,500	2,756,800	16%
Engineering Works	38,375,000	4,565,300	12%
Total	87,192,000	11,769,700	13%
Division Results			
Planning and Environmental Health	9,053,000	1,268,700	14%
Civil Services	62,362,000	8,259,400	13%
Corporate and Community	15,777,000	2,241,600	14%
Total	87,192,000	11,769,700	13%

9.16 Capital Expenditure - 30 September 2024 Review

The cash figures applied in this report do not reflect the contracts underway, where there is accrued expenditure incurred by the contractor.

Council's capital works program has expanded significantly in recent years, primarily due to increased grant funding, along with projects resulting from the 2022 floods.

Construction costs, after significant increases in recent years, now appear to be plateauing and ideally this should also result in increased responses to Council tenders, as some of the risk in pricing major construction contracts, due to ongoing price variations, may now be reducing.

The recommendations that follow relate to noting the contents of this report, along with approving the budget changes identified in Table 2 of this report.

RECOMMENDATIONS

1. That Council notes the contents of this report regarding the 2024/25 capital expenditure review for the period ending 30 September 2024.
2. That Council approves the budget variations, as per Table 2 of this report.

Attachment(s)

1. Division - Planning and Environmental Health [⇨](#)
2. Division - Corporate and Community [⇨](#)
3. Division - Civil Services - Emergency Services, NEWLOG and Resource Recovery [⇨](#)
4. Division - Civil Services - Water Operations [⇨](#)
5. Division - Civil Services - Wastewater Operations [⇨](#)
6. Division - Civil Services - Engineering Works [⇨](#)
7. Office of Local Government - Procurement Advice [⇨](#)
8. Ambrose Lane - Concept Design [⇨](#)

9.17 Local Government NSW Annual Conference - Voting Delegates

Section	Governance
Objective	To determine the Council's voting delegates to the 2024 Local Government NSW Annual Conference

Background

The Local Government NSW (LGNSW) Annual Conference is being held from 17 to 19 November 2024 in Tamworth.

At this stage, four Councillors have indicated their interest in attending. The Councillors are Crs Cadwallader, Chate, Karsten and Kinny.

Council is entitled to three voting delegates for policy motions addressed at the conference. Names of voting delegates are required to be submitted prior to 6 November 2024.

The purpose of this report is to confirm the voting delegates.

Key Issues

- Determination of voting delegates
- Method of voting

Discussion

LGNSW is the main industry representative organisation for councils. A large part of this annual conference focuses on motions submitted by councils with the delegates voting on the merits of the motions.

If supported, motions become priority matters for LGNSW to pursue, typically with the State Government.

Council's attendees at the 2023 conference were Crs Cadwallader, Chate and McCarthy, being the three voting attendees, and Crs Bruem, Ramsey, and Johnston being non-voting attendees.

Council's attendees at the 2022 conference were Crs Bruem, Ramsey, Johnston and Chate, with Cr Chate being a non-voting attendee. The Mayor, Cr Cadwallader, attended on behalf of Rous County Council and was their voting delegate.

Delivery Program Strategy / Operational Plan Activity

This report is consistent with Delivery Program strategy EL1.2 Involve our community in our planning and decision-making processes.

Community Engagement Strategy

No public consultation is required to be undertaken in relation to this attendance.

Financial / Risk Considerations

Funds are available within the Council's professional development budget to finance Councillors attending this conference and will be allocated from the \$5,000 allowance per year for each Councillor.

Options

To determine the three voting delegates, the first step is to determine how many Councillors wish to have the voting right.

If there are more than three nominees, and if there is no consensus, it will be necessary to conduct an election(s) for each voting delegate based on open voting, as per clause 11.10 of the Code of Meeting Practice, i.e.

Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

RECOMMENDATIONS

That Council confirms its voting delegates (maximum of three) for the LGNSW Annual Conference in November 2024 are as determined at this meeting.

Attachment(s)

Nil

10.1 Tender - Canal Bridge / Tamarind Drive Duplication - Telstra Relocation

10. Civil Services Division Reports

10.1 Tender - Canal Bridge / Tamarind Drive Duplication - Telstra Relocation

Section Project Management Office

Objective To report the outcomes of the tender evaluation for the Tender - Canal Bridge / Tamarind Drive Duplication - Telstra Relocation

Background

Council proposes to duplicate Tamarind Drive between Kerr Street and North Creek Road, Ballina. To construct these works, which consist of establishing a new bridge and approach pavements, telecommunication utility services need to be relocated.

Extensive works include relocating cables, conduits, pits and manholes out of the alignment of the new carriageways is required.

Relocation of Telstra assets can only be undertaken by the sole authorised contractor, Telstra InfraCo.

The value of these works exceeds the tendering limit.

Accordingly, this report is to endorse the single source procurement from Telstra InfraCo.

Key Issues

- Compliance with the procurement arrangements in the *NSW Local Government Act (1993)*
- Single source procurement for high value works

Discussion

Council has undertaken a significant amount of investigation and analysis to confirm the amount of relocation works required for the bridge and road duplication project to proceed.

These investigations have identified a substantial number of Telstra services that need to be relocated prior to major construction works commencing.

Relocation of Telstra assets can only be undertaken by Telstra's sole authorised contractor, Telstra InfraCo.

This results in the inability to call for competitive tenders due to Telstra InfraCo being the only entity that can complete the works.

A quotation was received from Telstra for \$471,423.01 (excluding GST).

10.1 Tender - Canal Bridge / Tamarind Drive Duplication - Telstra Relocation

Delivery Program Strategy / Operational Plan Activity

This project is included in Council's Delivery Program and Operational under Section 7.11 – Roads Plan.

Community Engagement Strategy

Council has undertaken a public exhibition of the project, and submissions were reported to Council at the December 2022 Ordinary Meeting.

Financial / Risk Considerations

These works are part of the Tamarind Drive / Canal Bridge Duplication Project included in the forward capital works program as follows:

2024/25 \$8m
2025/26 \$7.52m
2026/27 \$0.35m

Options

The only option is that Council, under Section 55(3)(i) of the *NSW Local Government Act* (1993), accepts the quotation from Telstra Corporation due to the “*unavailability of competitive or reliable tenderers*”.

The reason being that a satisfactory result would not be achieved by inviting tenders as the relocation of Telstra assets can only be undertaken by Telstra's authorised contractor, Telstra InfraCo.

RECOMMENDATIONS

1. That Council in accordance with the Section 55(3)(i) of the *Local Government Act* (1993), due to “*unavailability of competitive or reliable tenderers*” decides by resolution that a satisfactory result would not be achieved by inviting tenders, and awards the works to Telstra Corporation (Telstra InfraCo) for the Tender - Canal Bridge / Tamarind Drive Duplication - Telstra Relocation for the total amount of \$471,423.01 (excluding GST).
2. That Council, in accordance with Section 55(3)(i) of the *Local Government Act* (1993) records the reason a satisfactory result would not be achieved by inviting tenders is because the relocation of Telstra assets can only be undertaken by Telstra authorised contractors.

Attachment(s)

Nil

11.1 Rescission Motion - Police Station - Lennox Head

11. Notices of Motion

11.1 Rescission Motion - Police Station - Lennox Head

Councillor Cr Ramsey
 Cr Dicker
 Cr Chate

We move that Point 2, of Resolution 220824/19, as follows, be rescinded:

1. *That Council write to the NSW Minister of Police requesting the provision of a greater Police presence in Lennox Head.*
2. *That Council receive a report on future options for use of the land on the corner of Byron Street and Hutley Drive.*

In the event that the rescission motion is carried, we intend to move the following motion:

That Council offer the section of land owned by the Council, no longer required for a preschool, on the corner of Byron Bay Road and Hutley Drive, Lennox Head to NSW Police at a peppercorn lease rate, on the condition that they provide Shop Front Police Station on the land.

Staff Comment

The resolution, subject to this rescission motion, was adopted at the 22 August 2024 Ordinary meeting. Point 1 of resolution 220824/19 has been enacted and cannot be rescinded, with a response now received.

A copy of that response, from the Minister for Police and Counter Terrorism, is included as Attachment 1.

The land referenced in the rescission motion, being 9 Byron Bay Road, Lennox Head, is owned by Council, and is the location where the Lennox Head Rural Fire Service (RFS) shed has now been relocated.

Attachment 2 provides a site plan based on the RFS Shed approval.

Council was investigating the provision of a preschool on the site, however now that the new Lennox Head Primary School development also includes a preschool, there is no longer a need for a preschool on this site.

In relation to point 2, information is contained in Item 9.15 regarding potential uses for the Hutley Drive land. Further investigation regarding site uses will be guided by Council's resolution on Item 9.15 and the outcome of Council's consideration of this rescission motion.

COUNCILLOR RECOMMENDATION

That Point 2, of Resolution 220824/19, as follows, be rescinded:

That Council receive a report on future options for use of the land on the corner of Byron Street and Hutley Drive.

Attachment(s)

1. Minister for Police and Counter Terrorism - Police Resources in Lennox Head [⇒](#)
2. 9 Byron Bay Road, Lennox Head - Site Plan [⇒](#)

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 August 2024 Ordinary meeting are as follows:

<u>Date</u>	<u>Meeting</u>
24 August	Rainbow Region Dragon Boat Club Regatta Dinner
25 August	Rainbow Region Dragon Boat Club 8 th Annual Regatta Presentation
25 August	Wreath Laying Service and Legacy Luncheon
27 August	A Ward Committee Meeting
27 August	Cancer Council "Ballina Stars Dance for Cancer" fundraising event launch
28 August	Ballina Maritime Museum AGM
29 August	C Ward Committee Meeting
3 September	NSW Reconstruction Authority (NSWRA) and Ballina Shire Council Monthly Meeting
4 September	Rous County Council and Reflections Holiday Park Lennox Head Water Sustainability Launch
5 September	Novaskill Meeting
7 September	Sample Food Festival: My Mayor Rules Cook-Off
8 September	Constituent Meeting
9 September	Australian Coastal Councils Association (ACCA) Zoom Meeting
20 September	Master Builders Association of NSW Annual Insights Luncheon (North Coast NSW & Tweed Division)
20 September	Town and Gown Art Show Opening Event
21 September	Business NSW Northern Rivers Regional Business Awards
25 September	NSW SES Acting Commissioner Debbie Platz and Ballina Shire Council Meeting
25 September	NSW SES Ballina Unit Graduation Ceremony
25 September	Ballina Shire Concert Band Annual General Meeting
26 September	Ballina Coast High School Year 12 Farewell Assembly
27 September	National Police Remembrance Day
1 October	NSW Reconstruction Authority (NSWRA) and Ballina Shire Council Monthly Meeting
2 October	DA Timeframe Meeting with Property Representative and Staff
3 October	Rotary Ballina-on-Richmond Vocational Service Awards Evening
5 October	Funeral Service – Martyn Parr
8 October	Councillor Meet and Greet with Executive Team
9 October	Briefing on HomesNSW Projects with HomesNSW and the NSW Reconstruction Authority (NSWRA)
9 October	Funeral Service – Jack Trevan
10 October	Public Citizenship Ceremony
10 October	2024 NSW Volunteer of the Year Awards Northern Rivers Regional Ceremony
10 October	Rotary Club of Ballina on Richmond Flood Recovery Meeting
11 October	2024 Apprentice Employment Network Awards
14 October	Australian Coastal Councils Association (ACCA) Zoom Meeting
14 October	Lennox Head Residents Association Meeting
15 October	Ballina Shire Audit Risk and Improvement Committee
16 October	LGNSW Northern Rivers Dinner
17 October	LGNSW meeting with Darriea Turley and David Reynolds
17 October	Northern Rivers Community Gallery Exhibition Launch
18 October	Councillor Business Paper Review

13.1 Mayoral Meetings

20 October	Councillor Oath/Affirmation Ceremony and Dinner
21 October	Official Opening of the Lennox Head Village
21 October	Northern Rivers Community Leaders Forum – Mayors and MPs
21 October	Meeting with The Hon. Kevin Hogan MP, The Hon. Darren Chester MP Shadow Minister for Regional Education, Regional Development and Local Government and Territories; and Northern Rivers Mayors to discuss funding
21 October	Councillor Code of Conduct induction session
22 October	C Zones resident meeting with Staff
22 October	Councillor Code of Meeting Practice induction session
24 October	Ordinary Meeting

RECOMMENDATIONS

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

Attachment(s)

Nil

14. Confidential Session

14. Confidential Session

Nil Items