

# Agenda

## *Ordinary Meeting* 28 March 2024

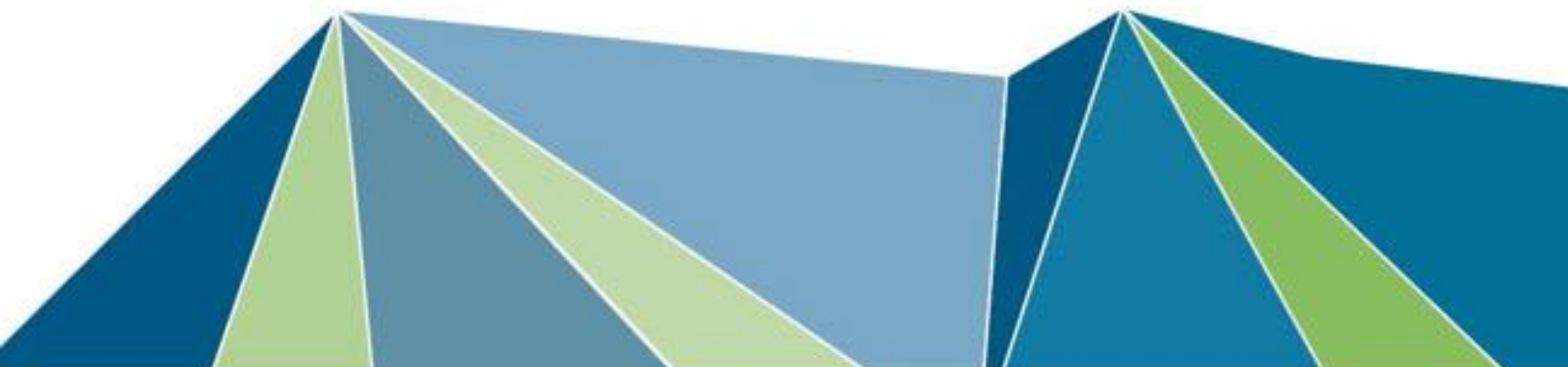
An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **28 March 2024 commencing at 9:00 AM.**

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

Paul Hickey  
**General Manager**

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

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

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

Ethical decision making

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

### **Conflict of Interest**

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

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

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

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

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

### **Identifying problems**

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

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

#### **Pecuniary Interests**

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

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

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

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

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

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

### **Deputations to Council – Guidelines**

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

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

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

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

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

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**1. Australian National Anthem**

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 February 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 February 2024.

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

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

## **8.1 DA 2023/339 - Commercial Development - 5 Snapper Drive, Lennox Head**

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

#### **8.1 DA 2023/339 - Commercial Development - 5 Snapper Drive, Lennox Head**

<b>Applicant</b>	Newton Denny Chapelle
<b>Property</b>	Lot 1 DP 1239938 5 Snapper Drive, Lennox Head
<b>Proposal</b>	Staged development involving the following:  Stage 1 - Relocation of the existing stormwater drainage infrastructure and associated earthworks.  Stage 2 - Erection of a two storey commercial building incorporating retail shops, cafe, and commercial offices and associated signage, car parking, landscaping and infrastructure works, and reinstatement of the previously approved kiosk (20m <sup>2</sup> ) within the Epiq Marketplace.
<b>Effect of Planning Instrument</b>	The land is zoned E1 Local Centre under the provisions of the Ballina LEP 2012.
<b>Locality Plan</b>	The subject land is depicted in the locality plan in Attachment 1.

#### **Introduction**

Council is in receipt of Development Application 2023/339 for the construction of a two storey commercial building and reinstatement of a 20m<sup>2</sup> kiosk at 5 Snapper Drive, Lennox Head, formally described as Lot 1 DP 1239938.

To assist Council in its determination of this application, this report outlines the background of the broader Major Project approval for the Pacific Pines Estate urban release area (now known as 'EPIQ Lennox') and the approval for EPIQ Market Place (DA 2017/447).

This report provides an assessment of the relevant matters of the proposal under Section 4.15 of the Environmental Planning and Assessment Act (EP&A Act) 1979.

The full Section 4.15 report, which provides an assessment of all required matters under the EP&A Act 1979, is contained in Attachment 2.

The key matters for consideration have been elaborated upon in this report for Council's consideration.

A copy of the plans for the proposed development are contained in Attachment 3.

The application is being reported to Council for determination due to the extent of variation to the development standard relating to the maximum allowable height of the buildings (being greater than 10%).

## **Background**

### Major Project Approval 07\_0026

On 12 November 2008 the then Minister for Planning granted approval to the Pacific Pines Estate under Major Project Approval 07\_0026.

The approval comprised a Concept Approval for the estate and a Project Approval for certain stages of the development.

The Major Project Approval allowed for:

- residential subdivision of approximately 505 lots.
- a neighbourhood centre comprising up to 3,000m<sup>2</sup> of retail floor space, 800m<sup>2</sup> of commercial space, approximately 20-25 'shop-top' dwellings and approximately 280 parking spaces.
- a community hall.
- a retirement community, including approximately 113 retirement units with a mixture of assisted and independent living and approximately 124 retirement lots, on-site leisure, open space and recreational facilities.
- medium density housing of up to 10 dwellings (density of around one dwelling per 250m<sup>2</sup>).
- 25.1 ha of green space incorporating areas for conservation, revegetation and rehabilitation.
- a road network connected to various existing roads.

This approval has been amended several times since it was originally issued.

Relevant to the current proposal is modification No.5, which was determined by the Department of Planning & Environment.

This modification amended the maximum floor area for retail uses within the neighbourhood centre to 5,500m<sup>2</sup>, with a total GLFA allowance of 6,300m<sup>2</sup> including 800m<sup>2</sup> of commercial space.

As the site is now zoned entirely E1 Local Centre, commercial premises are permissible with consent within the zone without being limited to the above GLFA allowance.

### Development consent DA 2017/447

The site comprises EPIQ Marketplace, a previously approved neighbourhood supermarket established under DA 2017/447.

The original development approval included a commercial building in the location of the proposed development and a 20m<sup>2</sup> kiosk within the main shopping centre building (Figure 1).

8.1 DA 2023/339 - Commercial Development - 5 Snapper Drive, Lennox Head

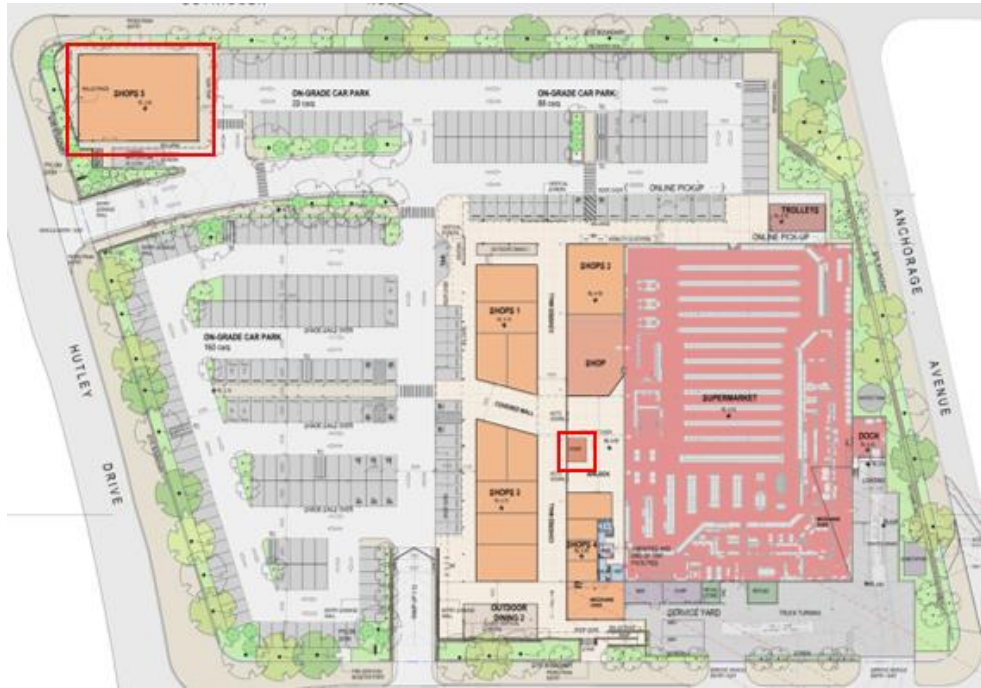


Figure 1 – Original approved site plan for DA 2017/447

The approval was subject to subsequent modifications, one of which removed the kiosk and commercial building from the plans (refer Figure 2).

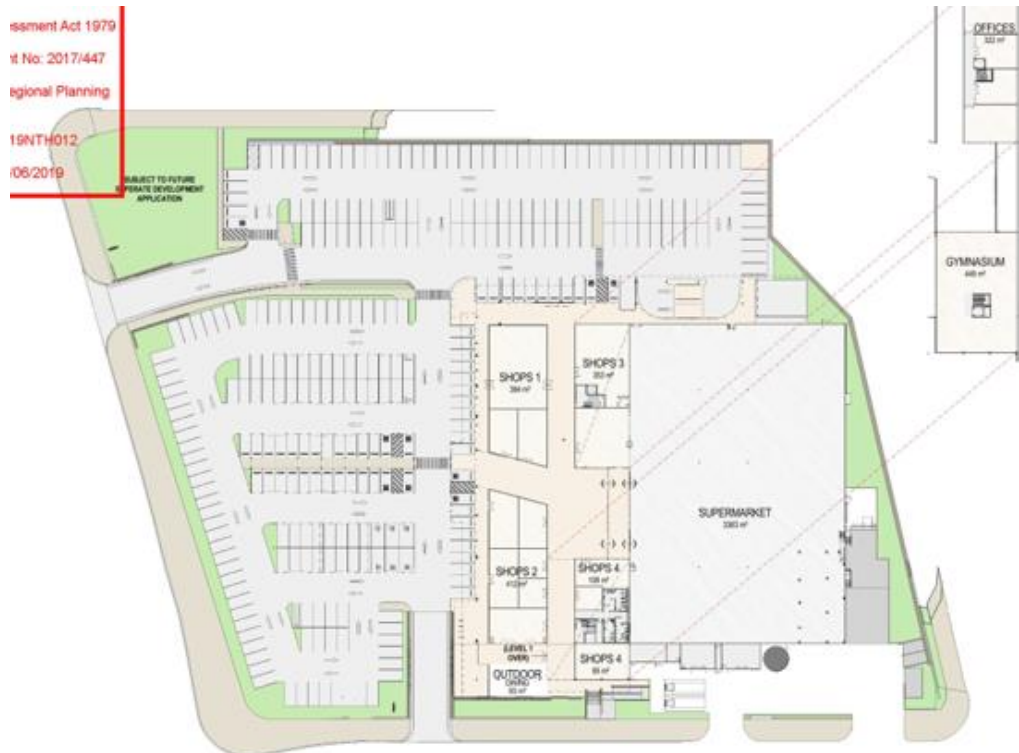


Figure 2 – Approved site plan for DA 2017/447.3

This development application (DA 2023/339) seeks approval for the commercial building on the secondary pad site and re-establishment of the previously approved kiosk within the shopping centre building on site.



### **Details of Proposal**

The proposed development involves the establishment of a two storey commercial building, incorporating retail, office, and food and drink uses on the secondary pad site.

The building comprises eight tenancies with a total gross floor area of 758m<sup>2</sup> and 75m<sup>2</sup> of outdoor dining space.

The proposed development also seeks approval for the reinstatement of a 20m<sup>2</sup> kiosk within the existing EPIQ Market Place building.

The development includes ancillary landscaping associated with the establishment of the new building, as well as the following associated signage:

- East elevation
  - 1 x Multiple identification signs
  - 8 x Under awning signs
  - 8 x Projecting wall signs
- North elevation
  - 1 x Wall sign
- South elevation
  - 1 x Multiple identification sign

The additional tenancies and kiosk result in a total GLFA for the site of 6,201.4m<sup>2</sup>, broken down as follows:

- Retail: 5,531.40m<sup>2</sup>
- Commercial: 670m<sup>2</sup>

Although the retail GLFA is a minor exceedance of the allowance provided under the Major Project Approval, retail premises are permissible with consent in the E1 zone and the combined retail and commercial GLFA is consistent with the requirements of the Major Project Approval 07\_0026.

A formal amendment to this current development application was sought by the applicant under Section 37 of the Environmental Planning and Assessment Regulations 2021 on 15 December 2023 via the NSW Planning Portal.

The amended proposal involves the relocation of existing stormwater drainage as the existing infrastructure that intersects the pad site and conflicts with the siting of the proposed development.

A stormwater relocation plan was submitted which proposed the relocated drainage to connect to new junction pits along the northern and eastern boundaries, with all infrastructure proposed to remain on private land.

The development includes ancillary landscaping associated with the establishment of the new building and signage.

The proposed development has an estimated construction cost of approximately \$2,282,358.

**Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

**Public Exhibition**

The application was placed on public exhibition from 13 September 2023 to 28 September 2023 in accordance with Council’s Community Participation Plan.

One public submission was received during the exhibition period in objection to the proposal.

The relevant matters raised in the submission have been addressed in this report. A copy of this submission is attached under separate cover as and personal information has been redacted as the submitter requested that their submission be kept confidential.

**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.

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

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

<b>Relevant State Environmental Planning Policies (SEPPs)</b>	
<ul style="list-style-type: none"><li>• SEPP (Resilience and Hazards) 2021</li><li>• SEPP (Industry and Employment) 2021</li></ul>	No issues are raised in relation to any applicable SEPP. Refer to Attachment 2 for further comment and assessment.
<b>Local Environmental Plans (LEPs)</b>	
<ul style="list-style-type: none"><li>• Ballina LEP 2012 (BLEP 2012)</li></ul>	<p>The proposed development is permitted with consent in the E1 Local Centre zone.</p> <p>The proposal is consistent with the aims and objectives of the zone. The development is acceptable having regard for the relevant additional local provisions in the BLEP 2012. The development complies with the relevant development standards, with the exception of the maximum Height of Buildings (Clause 4.3 and 4.3A) for which a written request has been lodged to justify the contravention.</p> <p>Refer to assessment of the proposed variation under Clause 4.6 of the BLEP 2012 below.</p> <p>Refer to Attachment 2 for further comment and assessment of the other relevant provisions.</p>

### **Building Height**

Clause 4.3 (Height of Buildings) of the BLEP 2012 prescribes a maximum building height of 9.0 metres for the subject site. However, the site is also subject to Clause 4.3A (Exceptions to height of buildings) which requires the maximum height of a building on the land to be measured from RL 1.9m (AHD).

This permits a building to be constructed within the mapped area up to a maximum height of 10.9m AHD (being 1.9m AHD + 9m).

The objective of Clause 4.3A is to align building height and flood planning provisions and provide for a consistent point of reference for the measurement of building heights in flood prone areas.

This clause is generally beneficial for applicants as it accounts for the need to position buildings above flood planning levels.

However, in this instance the existing ground level for the subject land has been previously raised as part of the development for the EPIQ Market Place under original development consent DA 2017/447 and DA 2017/221. As such, the pad site has a finished ground level of RL 3.55m AHD.

This would restrict the overall building height for the pad site to 7.35m.

In accordance with Clause 4.6 of the BLEP 20212, the applicant has sought to vary the maximum building height development standard specified in Clause 4.3 and 4.3A of the BLEP 2012.

Assessment of requested variations requires consideration of the following matters:

- a) What is the development standard being varied?

#### *4.3 Height of buildings*

- (1) *The objectives of this clause are as follows—*

- (a) *to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,*
- (b) *to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality,*
- (c) *to protect significant views from public places.*

- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The maximum building height required is 9m for the subject site. The building height exceedance of the proposed development is between 250mm (to the top of the roof form/plant equipment) and 1.175m (to the top of the roof access stairs) when measured from ground level (existing).

This constitutes variations of up to 13.05%.

The non-compliant sections of the buildings are depicted in red in Figures 3 - 5.

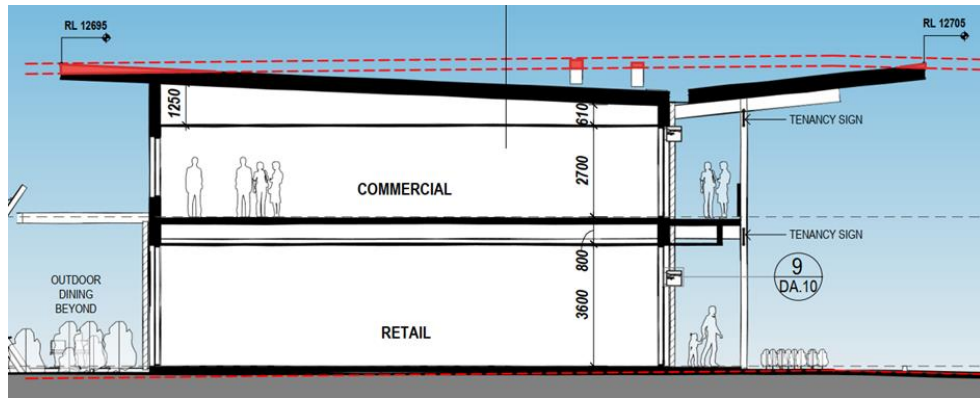


Figure 3 – Building Height Encroachment

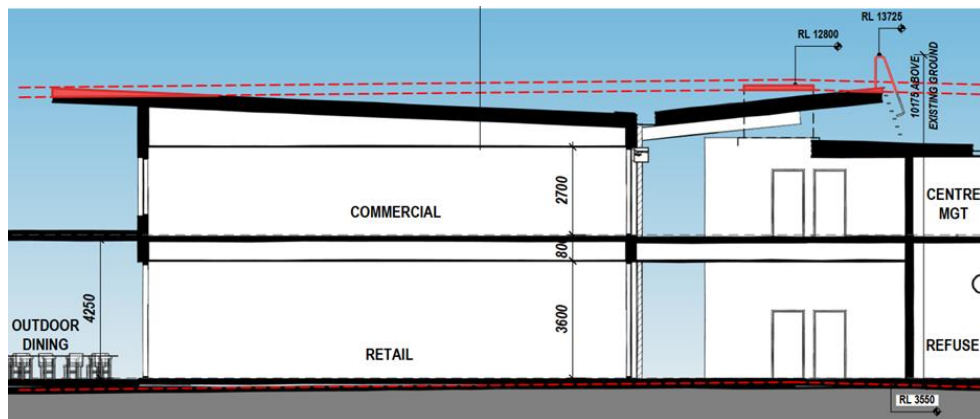


Figure 4 – Building Height Encroachment

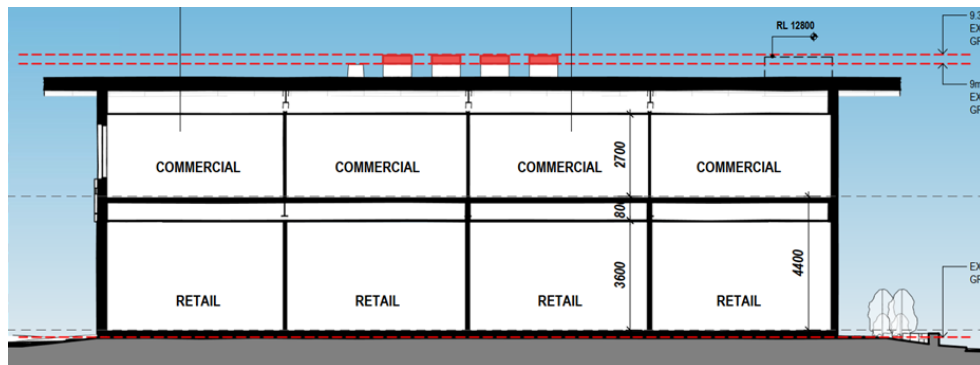


Figure 5 – Building Height Encroachment

4.3A Exceptions to height of buildings

- (1) The objective of this clause is to align building height and flood planning provisions and provide for a consistent point of reference for the measurement of building heights in flood prone areas.
- (2) This clause applies to land identified as “Minimum Level Australian Height Datum (AHD)” on the Building Height Allowance Map.
- (3) The maximum height of a building on land to which this clause applies is to be measured from the minimum level AHD permitted for that land on the Building Height Allowance Map.

As per Clause 4.3A, the maximum height of building under Clause 4.3 is to be measured from RL 1.9m (AHD). Therefore, the maximum height is 10.9m AHD (being 1.9m AHD + 9m). The proposed development has a maximum height of 13.725m AHD, resulting in a variation of up to 2.825m or 25.9%.

b) What is the underlying objective of this development standard?

The objectives of the standard are expressed in each clause as outlined above.

c) In accordance with clause 4.6 of the BLEP 2012:

- Has the applicant's written request adequately addressed the matters required to be demonstrated by subclause (3) of Clause 4.6 (i.e. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard)?

Yes

The applicant's justification for the proposed variation to development standards is summarised as follows:

*Strict compliance with the maximum height of building standard is unreasonable and unnecessary in the circumstances of the application based on the following:*

- *The proposal meets the objectives of the development standard as provided in clauses 4.3 and 4.3A of the BLEP 2012.*
- *The extent of non-compliance (i.e. additional 2.825m) is extenuated through the site being mapped under Clause 4.3A "Exceptions to height of buildings" under the Ballina LEP 2012'. The Clause does not recognise the scenario where sites have subsequently been filled and as such the filled level creates greater flood immunity and a common reference point for the balance of the development on the EPIQ Marketplace site. To this end, the building height exceedance is increased by some 1650mm due to the portion of the site being already lawfully filled.*
- *The height difference has an inconsequential shadowing impact at mid-winter to any adjoining buildings and no impact upon the public domain.*
- *No other amenity impacts (privacy, views or outlook) will arise from the additional height proposed.*
- *Having regard to the roof pitch, the built form provides a significant portion of the building below 9m, hence the building mass and scale is not considered to be excessive as a result of the building height exceedance.*
- *In respect to the presentation of the development to the western street frontage, the proposal presents as a two storey form and therefore will not dominate the streetscape.*
- *The built form has been designed so the structures when viewed from the adjacent residential areas to the north-east and west appear as a two storey development. In this regard, the proposal successfully.*

- *The buildings are located within a greenfield estate with surrounding development located on land with a higher elevation to the north, east and west. Accordingly, given the minor variation in the building height and directly associated to the roof and plant & equipment, views from the north, east and west from the surrounding residential areas is not adversely impeded due to the proposed variation.*

*Considering the above, in the circumstances of this application, it is neither reasonable nor necessary to require compliance with the height of building standard under the BLEP.*

- Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,

Yes

- d) Will the cumulative effect of similar approvals undermine the objective of the development standard or the objectives of the zone?

The site is unique in that it has been specifically designed and developed to accommodate the proposed commercial development. The site was previously approved to establish a pad site at a finished ground level of 3.5m AHD. The protrusion of part of the roof form and the roof access stairs beyond the maximum building height is minor and inconsequential.

Given this, approval of the proposed variation will not undermine the objective of the standard or zone, nor will it result in a cumulative effect.

- e) The Five Part Test (Note: only one of these tests needs to be satisfied)
- Are the objectives of the standard achieved notwithstanding non-compliance with the development standard?
  - Is the underlying objective or purpose of the development standard not relevant to the development and therefore compliance is unnecessary?
  - Will the underlying object of the purpose be defeated or thwarted if compliance was required and therefore is compliance unreasonable?
  - Has the development standard been virtually abandoned or destroyed by Council's actions in granting consents departing from the development standard and therefore is compliance with the development standard unnecessary and unreasonable?
  - Is compliance with the development standard unreasonable or inappropriate due to the existing use of the land and current environmental character of the subject property (should this property have been included in the current zone)?

The purpose of the development standard in Clause 4.3A is not relevant to the development and the site given that the pad site is well above the prescribed flood level post completion of the earthworks approved in DA 2017/221.

In this instance, the strict application of this standard is unnecessary to achieve its objectives and would impact the ability to deliver an otherwise appropriate two-storey commercial development on site.

Therefore, compliance with the development standard is unreasonable and inappropriate due to the existing characteristics of the land and the planned development of the site.

Accordingly, it is reasonable to consider the application primarily against Clause 4.3. The maximum height control (9m) can therefore to be taken from ground level (existing) to the highest point of the building.

The proposed development achieves the objectives of Clause 4.3 notwithstanding non-compliance with the development standard (of up to 1.175m or 13.05%).

The 1.175m protrusion is limited to the access stairs only, which comprise a very minor portion of the built form.

Otherwise, the extent of protrusion beyond the 9m building height is limited to a minor portion of the roof form and plant equipment that is 9.3m above the existing ground level, constituting a 3.3% variation.

Accordingly, the height of the proposed buildings is considered appropriate for the site and compatible with the desired bulk, scale and character of the locality.

Given the site is surrounded by an established street system and therefore has no immediate adjoining properties, the proposed development will not result in adverse impacts on the existing or future amenity of surrounding properties or the scenic or landscape quality of the locality.

The area of non-compliance will not impede significant views from public places.

Strict compliance could be achieved by removing the roof access stairs and providing a uniform roof pitch and/or reducing floor to ceiling height on ground floor. However, this would:

- be impractical for ongoing maintenance of roof plant,
- reduce the level of building articulation and compromise the architectural merit of the design,
- conflict with the minimum floor to ceiling requirements for commercial development in the BDCP 2012.

The proposed development is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

It is considered that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard in Clause 4.3 and 4.3A of the BLEP 2012.

Approval of the proposed variations do not raise any matter of significance for State or regional environmental planning and strict compliance with the standards will not have a material increased public benefit.

**8.1 DA 2023/339 - Commercial Development - 5 Snapper Drive, Lennox Head**

Pursuant to Planning Circular PS 20-002, Council may assume the concurrence of the Secretary of the Department of Planning, Infrastructure and Environment to rely on Clause 4.6 of the BLEP 2012 to vary the maximum building height under Clause 4.3 and 4.3A.

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

There are no draft Environmental Planning Instruments or Planning Proposals of relevance to the site.

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

<b>Ballina Shire Development Control Plan 2012</b>	
<p>Chapter 2 – General and Environmental Considerations</p> <ul style="list-style-type: none"> <li>• 3.3 – Natural Areas and Habitat</li> <li>• 3.4 – Potentially Contaminated Land</li> <li>• 3.6 – Mosquito Management</li> <li>• 3.7 – Waste Management</li> <li>• 3.9 – Stormwater Management</li> <li>• 3.10 – Sediment and Erosion Control</li> <li>• 3.11 – Provision of Services</li> <li>• 3.15 – Crime Prevention through Environmental Design</li> <li>• 3.16 – Public Art</li> <li>• 3.19 – Car Parking and Access</li> <li>• 3.20 - Vibration</li> </ul>	<p>The proposed development is acceptable when assessed against the relevant provisions of Chapter 2 of the Ballina DCP 2012.</p> <p>There are no issues raised in this section that would specifically preclude the development from being granted development consent, subject to the imposition of conditions where relevant.</p> <p>Refer to the Attachment 2 for an assessment of the clauses that are relevant to this application.</p>
<p>Chapter 2B – Floodplain Management</p>	<p>The proposed development is acceptable when assessed against Chapter 2B of the Ballina DCP 2012.</p> <p>The site was filled under previous approvals (DA 2017/447 and DA 2017/221) above the minimum non-habitable level requirements.</p> <p>Refer to the Attachment 2 for further assessment.</p>
<p>Chapter 6 – Commercial Development</p>	<p>The proposed development is acceptable when assessed against the relevant provisions of Chapter 6 of the Ballina DCP 2012.</p> <p>The proposed development is generally compliant with Chapter 6, with the exception of one control relating to the orientation of the shopfront for the commercial building. Notwithstanding, the proposal complies with the objectives of the section and is considered suitable in this instance.</p> <p>No car parking has been provided with the proposed development, however the demand associated with the increased GFA is accommodated by surplus parking that exists on site.</p>



## 8.1 DA 2023/339 - Commercial Development - 5 Snapper Drive, Lennox Head

<b>Ballina Shire Development Control Plan 2012</b>	
	Refer to the Attachment 2 for an assessment of the controls in Chapter 6 that are relevant to this application.
Chapter 6C – Commercial Development – Lennox Head	The subject site is zoned for E1 Local Centre and is in Lennox Head. However, the site is not in the Lennox Head Village Centre or any of the Lennox Head CBD Precincts. Accordingly, the controls in Chapter 6C are not applicable to the proposed development.
Chapter 8 – Other Uses <ul style="list-style-type: none"><li>• 3.4 Signage</li></ul>	<p>The proposed development is acceptable when assessed against the relevant provisions of Chapter 8 of the Ballina DCP 2012.</p> <p>The proposed signage is compliant with section 3.4 Signage, with the exception of one clause relating to the number of signs on the premises. Notwithstanding, the proposal complies with the objectives of the section and the signage is considered suitable in this instance.</p> <p>Refer to the Attachment 2 for an assessment of the clauses that are relevant to this application.</p>

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

None applicable.

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

No issues raised.

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

The proposal is not expected to result in adverse impacts on the environment or broader locality, subject to compliance with conditions. Refer to Attachment 2 for further assessment in relation to the likely impacts of the development.

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

The pad site has been established where the proposed commercial building is to be located and the proposed kiosk will be accommodated within an existing building on site. The proposed development is consistent with the objectives of the E1 zone and will achieve the desired character for the area.

The site is considered to be suitable for the development and the proposal will fit in the locality.

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

Public submissions

The application was placed on public exhibition from 13 September to 28 September 2023 in accordance with Council's Community Participation Plan.

One public submission was received during the exhibition period in opposition of the development (Attachment 4). The key matters raised in the submission are summarised and addressed as follows:

**1. Noise. The proposed development would result in an increase in noise that would have a detrimental effect on nearby residential properties.**

The application documentation was accompanied by an Environmental Noise Impact Assessment (ENIA), prepared by Tim Fitzroy & Associates (27 July 2023).

The ENIA:

- Establishes existing background noise levels across the site.
- Examines the likely impact of the proposed development on the surrounding residences in accordance with the NSW EPA Noise Policy for Industry (2017).
- Reports noise levels and provides recommendations to ensure the proposed development complies with the NSW EPA Noise Guidelines.

The noise sources that have been modelled include:

- Noise from inside retail tenancies emanating from opened doors.
- Outdoor patrons (a total of 32) on the outdoor deck on the western side of the building.
- Rooftop plant, including eight air conditioning condensers and two exhaust fans operating continuously.

Sensitive receiver points were selected at the frontage of properties along Outrigger Road, adjacent to the subject site.

The modelling found that noise emissions are predicted to:

- meet the relevant criteria at all nearby sensitive receptors during the day period.
- have minor exceedances of less than 2 dB(A) during the evening and night at the closest residential receivers.

The report concludes that, due to the conservative ambient noise levels utilised in the assessment, the proposed development is anticipated to achieve compliance at the nearest residential receivers.

The report has been reviewed by Council's Environmental Health Officer and no concerns are raised from an environmental health perspective in relation to the application.

**2. Waste. The proposed development would generate significant waste and increase the frequency of trucks visiting the site.**

The application documentation was accompanied by a Waste Management Plan (WMP), prepared by HMC Environmental Consulting Pty Ltd (July 2023).

The WMP:

- Examines the expected waste generation in construction and occupation stages.
- Details waste storage requirements.
- Recommends bin identification and signage.
- Establishes education and evaluation.
- Outlines review and monitoring.

Noting the issues raised by the submitter, waste generation, storage and frequency of trucks is discussed below.

The report examines the expected waste generation in the construction stage which includes:

- Site stripping including the removal of vegetative material and topsoil.
- Landform modification to ensure level building platform, excavation for footings and services.
- Construction of two-storey development including building shells, fitouts, additional carparking and landscaping.

The waste from the construction stage will be predominantly recycled (90%) through the Ballina Waste Management Centre.

The expected waste generation for the occupation stage comprises:

- Occupation of ground floor retail tenancies (2).
- Occupation of ground floor café/food tenancies (2).
- Occupation of first floor commercial tenancies (4).

The total general waste volume associated with the occupation stage is 2016 L/Week, whilst the total recycling volume is 2142 L/Week. The report recommends opportunities to capture the organics/green waste to reduce general waste to landfills.

With regards to waste storage, the report identifies that there is adequate space available onsite to provide temporary waste storage and recyclable building waste storage during the construction stage of the development. Waste in the occupation stage will be located within the designated refuse storage area.

In accordance with the existing waste servicing arrangement by Richmond Waste, servicing will occur on 3 days each week:

- General waste and co-mingled recyclables: Monday and Thursday
- Cardboard/paper: Friday

Given the information provided in the WMP, it is considered that the waste generation and servicing will not significantly differ from the existing arrangement and is unlikely to increase adverse effects on surrounding properties.

**3. Safety. The proposed development will increase risk of crime, violence and vandalism and increase traffic to the area, which would compromise safety.**

The application documentation provides a Crime Risk Assessment against the principles contained in Crime Prevention and the Assessment of Development Applications. The assessment is summarised as follows:

Surveillance

The design of the new commercial building provides for extensive glazing which allows for natural surveillance of both street frontages, as well as internally to the shared car park.

The proposed landscaping will not obstruct the ability for casual surveillance or provide any hiding places or areas of entrapment.

Adequate street lighting is provided on Hutley Drive and Outrigger Place to provide for the safety of pedestrians on the public footpath.

Internally, security lighting and CCTV will be installed adjacent to the car parking, refuse room, and loading area.

Access control

There is a clear delineation between private and public land through level changes and landscaping. Access to the new building from external to the site is limited to a single footpath connection from Outrigger Road. Otherwise, access is provided from the shared car park.

Territorial reinforcement

Territorial management is reinforced through level change and landscaping. Clear signage will indicate tenancies and how spaces on site are to be used.

The proposal does not involve any fencing or enclosures that would present a safety risk.

Space management

The property manager for the site will be responsible for site cleanliness, repair of vandalism/graffiti, replacement of lighting, and landscape management. The building materials proposed will allow for efficient vandalism/graffiti repair, where required.

The proposed development is not anticipated to increase the likelihood of crime, violence, or vandalism in the area.

The traffic associated with the proposed development is not anticipated to increase safety concerns for surrounding residents. Additional traffic is managed by speed limits and other road rules.

**4. Light. The proposed development would increase lighting which would directly impact nearby residential properties.**

The application material details the hours of operation are Monday to Sunday, 6am to 10pm. Goods deliveries and waste servicing will occur between the hours of 7am and 6pm.

Where lighting is required, it will be provided in a manner which provides a safe environment for staff and customers, whilst also addressing the provisions of AS2482.

The multi-tenancy sign and tenancy blade signs will be internally illuminated in accordance with the relevant Australian Standards, which will minimise light spill.

Noting the hours of operation and existing street lighting in the locality, the lighting associated with the development is not anticipated to have an adverse impact on nearby residential properties.

**5. Visual intrusion. The proposed building is visually intrusive and the pad site should be kept as a green space.**

The site is zoned E1 Local Centre in accordance with the Ballina LEP 2012 and is anticipated to accommodate commercial development of this nature. The proposed development also reflects the built form outcomes approved under original development consent DA 2017/447 issued for the EPIQ Market Place.

The proposal plans provided with the development application show the building is well articulated through architectural features such as:

- Timber look batten shade screen.
- Stone cladding.
- Green wall.
- Large eaves and windows.

The built form is supported by landscaping along the western boundary, replicating the existing trees and shrubs on-site.

Overall, the building is consistent with the intent of the E1 zone and is both visually appealing and an improvement on the currently vacant land.

**4.15(1) (e) The Public Interest**

The proposal provides a commercial development which is consistent with the objectives of the E1 Local Centre zone and the Major Project Approval 07\_0026.

The pad site was established under the original development consent DA 2017/447 for the EPIQ Market Place with the intent to accommodate a commercial development of this nature.

The development will provide for additional employment and economic stimulation for the locality. The tenancies allow for a variety of businesses to establish on site to service the community.

The development is generally consistent with the built form requirements for the site. The building is well articulated and provides visual interest through a timber look batten shade screen, stone cladding, green wall and large eaves and windows.

The variation to maximum building height is appropriate in this instance due to the site characteristics and the nature of the protrusions.

The development is not anticipated to have an adverse amenity impact on surrounding properties due to noise, light, or traffic.

Having regard to the matters outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979, the proposed development is considered to be in the public interest.

### **Conclusion**

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

The matters raised within the public submissions received in relation to the proposal have been adequately addressed with this assessment and the section 4.15 assessment report contained in Attachment 2.

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

#### *Option 1 – Grant consent to the application*

It is recommended that Council assumes the concurrence of the Secretary of the Department of Planning, Infrastructure and Environment to grant a variation to the development standards for building height specified in Clause 4.3 and 4.3A of the Ballina LEP 2012 and grants consent to the application, subject to standard planning, engineering, environmental health and building conditions, and non-standard conditions contained in Attachment 5.

#### *Option 2 – Refuse the application*

Council could determine the application by way of refusal.

This option is not recommended given that:

- the assessment has concluded that the application generally meets the applicable planning requirements.
- the applicant's request for an exception to development standards relating to the maximum building height for the development has demonstrated that strict compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

## **8.1 DA 2023/339 - Commercial Development - 5 Snapper Drive, Lennox Head**

- conditions can be imposed to suitably address potential impacts associated with the development.

### *Option 3 – Defer determination of application*

Council could defer determination of the application to obtain additional information or hold a Councillor briefing of the matter.

This option is not recommended on the basis that sufficient information has been submitted to undertake a complete assessment of the application.

## **RECOMMENDATIONS**

1. That Council assumes the concurrence of the Secretary of the Department of Planning, Infrastructure and Environment to grant a variation to Clause 4.3 – Height of Buildings and 4.3A – Exceptions to Building Heights under Clause 4.6 of the Ballina LEP 2012.
2. That Development Application 2023/339 for Staged development involving the following: Stage 1 - Relocation of the existing stormwater drainage infrastructure and associated earthworks; Stage 2 - Erection of a two storey commercial building incorporating retail shops, cafe, and commercial offices and associated signage, car parking, landscaping and infrastructure works, and reinstatement of the previously approved kiosk (20m<sup>2</sup>) within the Epiq Marketplace at 5 Snapper Drive, Lennox Head be **APPROVED** subject to standard planning, engineering, environmental health and building conditions for this type of development, and non-standard conditions contained in Attachment 5.

## **Attachment(s)**

1. DA 2023/339 - Locality Plan [⇨](#)
2. DA 2023/339 - Section 4.15 Assessment [⇨](#)
3. DA 2023/339 - Development Plans [⇨](#)
4. DA 2023/339 - Submission (Confidential Redacted) [⇨](#)
5. DA 2023/339 - Recommended Non Standard Conditions of Consent [⇨](#)

## **8.2 State Government Short Term Rental Accommodation - Submission**

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### **8.2 State Government Short Term Rental Accommodation - Submission**

<b>Section</b>	Strategic Planning
<b>Objective</b>	To seek endorsement of a submission in response to the NSW Department of Planning, Housing and Infrastructure's Discussion Paper on Short and Long-Term Rental Accommodation

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#### **Background**

In February 2024, the NSW Government through the Department of Planning, Housing and Infrastructure (DPHI) released a discussion paper for public comment with respect to short term rental accommodation (STRA) and its impact on the availability of long-term rentals across NSW.

A copy of the paper is contained in Attachment 1.

The public exhibition period for the *Discussion Paper on short- and long-term rental accommodation* (the Discussion Paper) closed for public comment on 14 March 2024.

Like many other councils, an extension to the submission period was sought to allow staff to present a report to the March 2024 Ordinary meeting to enable Council to consider the content of a submission.

Unfortunately, the Department did not agree to this request. Instead DPHI suggested that a staff submission be made by 14 March 2024 and a Council approved submission could be accepted after this date.

To preserve the opportunity for a Council endorsed submission to be made, staff prepared and submitted a draft submission by the due date (Attachment 2).

The draft submission is consistent with the actions in the draft Ballina Shire Housing Strategy. Public comment on this strategy closed on 15 March 2024.

This report outlines key issues identified in relation to the discussion paper and seeks Council's confirmation for a submission on STRA and housing to the NSW Government.

#### **Key Issues**

- Short term rental accommodation policy
- Housing availability and affordability

#### **Discussion**

The discussion paper indicates a shift of position from the State Government in relation to short term rental accommodation (STRA). It states:

*'The focus of the government has, therefore, shifted from addressing guest behaviour and neighbourhood amenity to the effects of short-term rental accommodation on the housing market and housing affordability.'*



## 8.2 State Government Short Term Rental Accommodation - Submission

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The Discussion Paper goes on to outline the deterioration of housing affordability in NSW and the growth of STRA facilitated by online booking platforms and a 'light touch' regulatory approach.

The discussion paper outlines the current planning and regulatory approach to STRA in NSW, which in summary comprises:

- an exempt development planning pathway for hosted and non-hosted STRA
- a 180-day cap in any 365-day period on non-hosted STRA in Greater Sydney and certain LGAs, including Ballina, Byron Shire (60-day cap in most of the LGA from September 2024), parts of Clarence Valley and Muswellbrook
- no restriction on hosted STRA
- an exemption from the day limits for bookings of 21 or more consecutive days for non-hosted STRA
- fire and safety requirements for STRA
- an online, government run STRA register to capture compliance with fire standards and other regulations such as day caps.

The discussion paper highlights changes relating to Byron Shire instigated by the Independent Planning Commission (IPC) review of Byron Shire Council's planning proposal for STRA (IPC Report). The IPC Report made 12 recommendations including that:

- the non-hosted STRA day cap be reduced to 60 days for a 365-day period across the whole local government area.
- precincts in and around Byron's town centre and Brunswick Heads should allow non-hosted STRA without any cap on number of days.

A copy of the IPC Report can be found online at [230424 byron-stra-pp advice-report\\_final.pdf \(nsw.gov.au\)](https://www.nsw.gov.au/230424-byron-stra-pp-advice-report-final.pdf)

The DPHI approved Byron Shire Council's planning proposal in accordance with the IPC Report's recommendations above. The new rules will take effect on 23 September 2024, providing a 12-month transition period during which the community and industry can prepare.

Other policy approaches explored in the Discussion Paper are:

- Regulatory measures such as:
  - Day caps.
  - Limit on the number of non-hosted STRA registration allowed per property.
  - Development approval requirements.
  - Reporting requirements to the NSW STRA Register; and
  - Enforcement and compliance.
- Revenue measures such as:
  - Levies on non-hosted STRA – location specific.

### *Draft Submission*

The submission prepared by Council staff makes the following points in response to matters raised in the discussion paper:

## **8.2 State Government Short Term Rental Accommodation - Submission**

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- Council takes a more holistic view of sustainable economic growth and requests the State Government to take a more strategic look at the economic impacts of the lack of available and affordable housing across industry sectors, not just the tourism sector.
- Research on the impact on the rest of the economy of not having available housing for workers in other industries should be shared with local government and the community.
- More data is required to understand the impact of STRA on other tourism accommodation providers that have been subject to regulations and other taxes not imposed on STRA. The draft Ballina Shire Housing Strategy contains actions to encourage tourism accommodation development in key locations and to identify options for limitation of non-hosted STRA in Ballina Shire.
- The demand for STRA is highly localised around key destinations, as are the impacts on housing availability and affordability. A localised geographical approach to designate areas where non-hosted STRA can occur without limits within each LGA ensures non-hosted STRA can be provided in high demand areas without impacting demand for long term housing in other areas. Local governments are best placed to identify areas for non-hosted STRA, and the built form provisions appropriate to the location.
- Non-hosted STRA should be limited to specific locations subject to a development application, where local amenity issues can be properly considered and the use subject to conditions. Hosted STRA could be exempt development subject to meeting specific requirements. This approach will not unnecessarily clog up the DA system, whilst providing local government with a strong foundation for assessment of non-hosted STRA and its associated impacts.
- Day caps have been relied on as an effective way to limit the impacts of STRA on available local long-term housing stock. However, as noted by the IPC Report for Byron Bay the day cap needs to ensure the returns from non-hosted STRA are closer to those for long-term rental accommodation. This will be different in each local market.
- The Government's STRA Register has been a positive initiative to assist in quantifying the extent and details of how STRA is occurring in NSW. However, local governments do not have access to enough of the data to support participation in policy advocacy and development.
- Income from any levies should go towards supporting enforcement and regulation activities or contribute to affordable housing delivery in the LGA in which the levy is collected. Another option is to distinguish between non-hosted STRA and residential housing through the rating system.

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

The following Delivery Program actions are relevant to this matter:

- PE1.1 Promote our area as an attractive place to visit.
  - PE1.1b Implement Destination Management Plan
- PE3.2 Facilitate residential land
  - PE3.2d Prepare Housing Strategy including local affordable housing framework

## **8.2 State Government Short Term Rental Accommodation - Submission**

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- EL 1.3 Actively advocate community issues to other levels of government
  - EL1.3a Approach State and Federal Governments on local issues

### **Community Engagement Strategy**

This report has been prepared to respond to a public exhibition process being undertaken by the NSW Government.

### **Financial / Risk Considerations**

There are several potential outcomes associated with the matters raised in the discussion paper. As such, it is difficult to be definitive about potential financial and risk implications. Generally, though, there is the potential for changes in STRA policy settings to have negative financial and other resource impacts on Council through regulatory responsibilities. Alternatively, it could be that changes in the system are more positive and reduce Council's regulatory role and/or raise additional revenue.

### **Options**

The following options are presented for Council's consideration:

*Option 1 – Council endorses the submission provided as Attachment 2.*

This option is recommended to encourage the DPHI to consider several aspects of the proposed initiatives to achieve a more effective approach to improving housing affordability with a more holistic view of potential economic impacts. If endorsed as drafted, staff will proceed to resubmit the submission to DPHI as a final Council endorsed submission.

*Option 2 – Council amends the draft submission provided in Attachment 2.*

This option is available should the Council wish to adjust the submission. If this approach is preferred, it is suggested that Council outlines the changes to be made as points in its resolution. Under this option staff will then proceed to amend and finalise the submission in line with Council's resolution and submit it to the DPHI as Council's final endorsed feedback (superseding the draft submission previously made).

### **RECOMMENDATION**

That Council endorses the submission contained in Attachment 2 to this report, to the NSW State Government's Discussion Paper - Short and Long-term Rental Accommodation.

### **Attachment(s)**

1. DPHI Discussion Paper - Short and Long-term Rental Accommodation [⇒](#)
2. Ballina Shire Council Draft Submission - STRA Discussion Paper [⇒](#)

### 8.3 Policy (Review) - Busking

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### 8.3 Policy (Review) - Busking

<b>Section</b>	Open Spaces
<b>Objective</b>	To review the busking policy

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#### **Background**

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

Council first adopted this policy in 2004. It has been previously reviewed in 2011, 2015 and 2019.

The policy recognises the value of busking in the Shire and provides a management framework regarding location and insurance requirements.

#### **Key Issues**

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

#### **Discussion**

This review of this policy identified minor changes in wording and adjustments regarding public liability insurance and performance locations as follows:

##### Public Liability

Changes to Council's public liability policy enables buskers who hold a valid Standard Busking Approval to be covered by Council insurance, removing the requirement for buskers to maintain their own policy.

This removes a cost and potential impediment to buskers. Special Busking Approvals, where *dangerous materials* or *dangerous implements* are used, still require public liability insurance to be held by the performer(s).

##### Location/Maps

The maps have been updated to support and formalise an existing busking location in Ballina. An additional location has been included in Alstonville to further support and promote busking.

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

A copy of the revised policy is contained in Attachment 1. Recommended changes have been marked in yellow.

## 8.3 Policy (Review) - Busking

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

The busking policy broadly aligns with the following objectives and strategies in the Delivery Program and Operational Plan

- Connected Community
  - CC2.1 Create events and activities that promote interaction and education, as well as a sense of place.

### **Community Engagement Strategy**

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

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

### **Financial / Risk Considerations**

Nil

### **Options**

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

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

### **RECOMMENDATIONS**

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

### **Attachment(s)**

1. Policy (Review) - Busking [⇨](#)

## **8.4 Policy (Review) - Contaminated Land Management**

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### **8.4 Policy (Review) - Contaminated Land Management**

**Section** Public and Environmental Health

**Objective** To review the Contaminated Land Management Policy.

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#### **Background**

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

Council first adopted this policy in 2008.

The Contaminated Land Policy is made under State Environmental Planning Policy (Resilience and Hazards) 2021 and its associated *Managing Contaminated Land Planning Guidelines* to implement a contaminated land management framework within Council's planning and development process.

The Management of Contaminated Land Policy sets a framework to ensure that Council appropriately considers the potential for land contamination when exercising its functions.

#### **Key Issues**

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

#### **Discussion**

Council's current policy has been reviewed by a specialist Contaminated Land Consultant employed as part of an NSW Environment Protection Authority grant project to develop a consistent policy across the region.

The proposed changes are as follows:

- Update references to legislation and guidelines
- Clarify some of the requirements of the legislation
- Set out some Council specific requirements.

The changes have been marked in yellow. Although there are numerous mark ups in the documents, the changes are relatively minor in nature in that they provide clarity on matters to be addressed and do not significantly alter the fundamental principles or operation of the policy.

The amended policy reflects contemporary practice and current legislation. A copy of the amended policy is included as Attachment 1.

## **8.4 Policy (Review) - Contaminated Land Management**

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

This policy supports Delivery Program outcome Healthy Environment (HE).

### **Community Engagement Strategy**

Council's Contaminated Land Policy has incorporated the outcomes of consultation with councils in the region, industry stakeholders and the broader community.

The revised policy reflects a model regional contaminated land policy that was prepared through the Northern Rivers Contaminated Land Program funded by an NSW Environment Protection Authority grant.

The revised policy will be exhibited for public comment. If submissions regarding the content and operation of the policy are received, then the policy will be reported back to Council. However, there will not be a need for any further report if there is no public comment.

### **Financial / Risk Considerations**

The development and consistent application of a local contaminated land policy by Council provides a valuable tool to ensure and demonstrate adherence to contemporary management and planning practice.

Its implementation directly assists Council in demonstrating it is acting in "good faith" relative to legislative obligations.

### **Options**

Council may accept or amend the proposed changes to the policy. The changes aim to ensure the document remains contemporary and current relative to applicable legislation and local government best practice. It is recommended that the policy be adopted as presented.

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

### **RECOMMENDATIONS**

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

### **Attachment(s)**

1. Policy (Review) - Management of Contaminated Land [⇒](#)

## 8.5 Policy (Review) - Liquor Licence Application

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### 8.5 Policy (Review) - Liquor Licence Application

<b>Section</b>	Public and Environmental Health
<b>Objective</b>	To review the Liquor Licence Application Policy.

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#### **Background**

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Liquor Licence Application Policy.

Council first adopted this Policy in July 2012.

The policy provides guidelines to assist in the review, processing and management of a notification of a Liquor Licence Application in Ballina Shire.

The policy establishes a framework for the consideration of a notification of a liquor licence application when exercising Council's powers, functions and duties under the *Liquor Act 2007* (NSW).

The policy applies to all notifications to Council of liquor licence applications that have been submitted to Liquor and Gaming NSW for a transfer, amendment or grant of a liquor licence within Ballina Shire.

The policy establishes criteria for considering all notifications of applications relating to two broad categories:

1. Premises on Council owned or managed land
2. Premises on private property including but not limited to hotels, clubs, cafes or restaurants.

The review of this policy has identified that the consideration of liquor licence application referrals is largely procedural and technical and so processing of these referrals can be guided by a procedure.

#### **Key Issues**

- Need for the Policy and its content relative to the operation and requirements of Council and current legislation

#### **Discussion**

Liquor licence application decisions are made by Liquor & Gaming NSW.

Council can make submissions in support or objecting to applications made, based on any development approvals that may be in place for the premise or activity.



## **8.5 Policy (Review) - Liquor Licence Application**

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Submissions are managed through the Liquor and Gaming Application Noticeboard and Liquor & Gaming NSW may consider submissions when making their decisions.

Council submissions may provide details in relation approved hours of operation, leased areas (Council facilities), approved patron numbers and other conditions of approval.

The process for consideration of liquor licence application referrals and the nature of feedback provided is technical based on applicable planning provisions, development approvals, site history, lease and licence information and any complaint data held by Council.

Liquor licences can help businesses thrive and Liquor & Gaming can apply conditions to protect neighbours and the community from unreasonable impacts from licenced premises.

The aim in managing liquor licence applications is to support businesses while protecting community amenity and aligning decisions with the local planning framework and development approvals.

The review of the policy identified that due to the changes to liquor licence application process over the past decade this policy is no longer necessary.

It is recommended that this policy be rescinded and the policy content (as set out in Attachment 1) be converted to an operational procedure to assist staff in processing application referrals.

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

This process relates to the following Delivery Program outcomes:

- CC1 - We feel safe and resilient
- PE2 - We support business diversity, sustainability, and choice.

### **Community Engagement Strategy**

If Council proposes to continue with a policy, it is recommended that Council adopt the draft updated policy as presented and exhibit for public comment.

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

If Council resolves to rescind the policy, no exhibition process is required.

### **Financial / Risk Considerations**

It is important that Council manages its responsibilities in relation to liquor licence proposals from both a proponent and community perspective, based on legislative requirements.

There are no specific financial or risk concerns arising from the options presented.

## **8.5 Policy (Review) - Liquor Licence Application**

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### **Options**

It is recommended that this policy be rescinded as the consideration of application referrals from NSW Liquor and Gaming is technical in nature.

Alternatively, Council could retain the policy based on the revised version in Attachment 1. Council may accept or amend the proposed changes to the policy and place this policy on exhibition. If there are no submissions, the policy will be considered adopted.

### **RECOMMENDATION**

That Council rescinds the Liquor Licence Application Policy based on the framework for these applications now being administrative in nature.

### **Attachment(s)**

1. Policy (Review) - Liquor Licence Application [⇨](#)

## 9.1 Use of Council Seal

## 9. Corporate and Community Division Reports

### 9.1 Use of Council Seal

#### RECOMMENDATION

That Council affix the Common Seal to the following documents.

US2024/ 4	<p>1. That Council, in accordance with the relevant provisions of the Local Government Act 1993, enters into the following lease of <i>community land</i>:</p> <table border="1"><thead><tr><th>Property</th><th>Tenant</th><th>Tenure</th></tr></thead><tbody><tr><td>Part of Ballina Heights Sports Field, being the sports buildings located at 33 Power Drive Cumbalum (part of Lot 99 DP 1196589)</td><td>Tintenbar East Ballina Football Club Inc</td><td>Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$590 per annum plus GST)</td></tr></tbody></table> <p>2. Council authorises the General Manager to affix the seal to the lease in point one and any other documents required to allow tenure to be granted in accordance with point one.</p> <p>3. That prior to points one and two being actioned, statutory public notification relating to the proposed lease of community land be undertaken, with a report to be presented to Council in the event that an objection of a substantive nature is received to the grant of the proposed lease.</p>	Property	Tenant	Tenure	Part of Ballina Heights Sports Field, being the sports buildings located at 33 Power Drive Cumbalum (part of Lot 99 DP 1196589)	Tintenbar East Ballina Football Club Inc	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$590 per annum plus GST)			
Property	Tenant	Tenure								
Part of Ballina Heights Sports Field, being the sports buildings located at 33 Power Drive Cumbalum (part of Lot 99 DP 1196589)	Tintenbar East Ballina Football Club Inc	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$590 per annum plus GST)								
US2024/ 5	<p>Ballina Shire Council Lease to Viva Energy Aviation Pty Ltd for Lot 276 DP 1262163, 21 Southern Cross Drive Ballina, for a five-year lease with a five-year option at market rent.</p> <p><b>Explanation:</b> Viva Energy Aviation Pty Ltd have leased the above premises for storage and supply of aviation gasoline jet fuel at Ballina Byron Gateway Airport for over six years. The lease expired on 30 June 2023.</p>									
US2024/ 6	<p>1. That Council, in accordance with the relevant provisions of the Local Government Act 1993, enters into the following leases of <i>community land</i>:</p> <table border="1"><thead><tr><th>Property</th><th>Tenant</th><th>Tenure</th></tr></thead><tbody><tr><td>Part Lot 7064 DP 1118403 – Owen Street, Ballina (Council is Crown Land Manager)</td><td>Ballina Junior Rugby League Football Club Inc</td><td>Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$590 per annum plus GST)</td></tr><tr><td>Part Lot 7064 DP 1118403 – Owen Street, Ballina (Council is Crown Land Manager)</td><td>Ballina Netball Association Inc</td><td>Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$590 per annum plus GST)</td></tr></tbody></table>	Property	Tenant	Tenure	Part Lot 7064 DP 1118403 – Owen Street, Ballina (Council is Crown Land Manager)	Ballina Junior Rugby League Football Club Inc	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$590 per annum plus GST)	Part Lot 7064 DP 1118403 – Owen Street, Ballina (Council is Crown Land Manager)	Ballina Netball Association Inc	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$590 per annum plus GST)
Property	Tenant	Tenure								
Part Lot 7064 DP 1118403 – Owen Street, Ballina (Council is Crown Land Manager)	Ballina Junior Rugby League Football Club Inc	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$590 per annum plus GST)								
Part Lot 7064 DP 1118403 – Owen Street, Ballina (Council is Crown Land Manager)	Ballina Netball Association Inc	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$590 per annum plus GST)								

## 9.1 Use of Council Seal

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	Part Lot 4 DP 1153430 – Canal Road, Ballina	The Ballina Community Gardens Inc	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$590 per annum plus GST)
<p>2. Council authorises the General Manager to affix the seal to the lease documents in point one and any other documents required to allow tenure to be granted in accordance with point one.</p> <p>3. That prior to points one and two being actioned, statutory public notification relating to the proposed lease of community land be undertaken, with a report to be presented to Council in the event that an objection of a substantive nature is received to the grant of the proposed lease.</p>			

### Attachment(s)

Nil

## 9.2 Investment Summary - February 2024

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### 9.2 Investment Summary - February 2024

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

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#### **Background**

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

The report is to be presented at the ordinary meeting, immediately following the end of the respective month.

This report has been prepared to confirm the cash and investments held as of 29 February 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 February 2024, have been made in accordance with the Act, the Regulations and Council's Investment Policy.

#### **Key Issues**

- Compliance with Investment Policy
- Return on investment

#### **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 July 2023 is available on Council's website.

The total balance of investments, as at 29 February 2024, was \$106.9m, compared to a balance of \$108.9m as at 31 January 2024.

Council's investments, as at 29 February 2024, were invested at a weighted average interest rate of 5.202%, which was 0.867% higher than the February average 90 Day Bank Bill Index (BBSW) of 4.335%.

The balance of Council's Commonwealth Bank business account, as at 29 February 2024 was \$11,459,852, which compares to a balance of \$16,132,761 as at 31 January 2024.

## 9.2 Investment Summary - February 2024

Total combined cash and investments, as at 29 February 2024 was \$118,359,852 compared to \$125,032,761 as at 31 January 2024.

The net decrease of \$6.7m in cash and investments from January to February was due to capital expenditure payments made during the month and an additional weekly creditors payment made due to five Thursdays in the month of February, offset partially by rates instalments received for quarter three due at the end of February.

TCorp's monthly Economic Commentary report for February 2024 can be viewed using the following link: [Monthly economic report – February 2024 \(nsw.gov.au\)](https://www.nsw.gov.au/monthly-economic-report-february-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 2023.

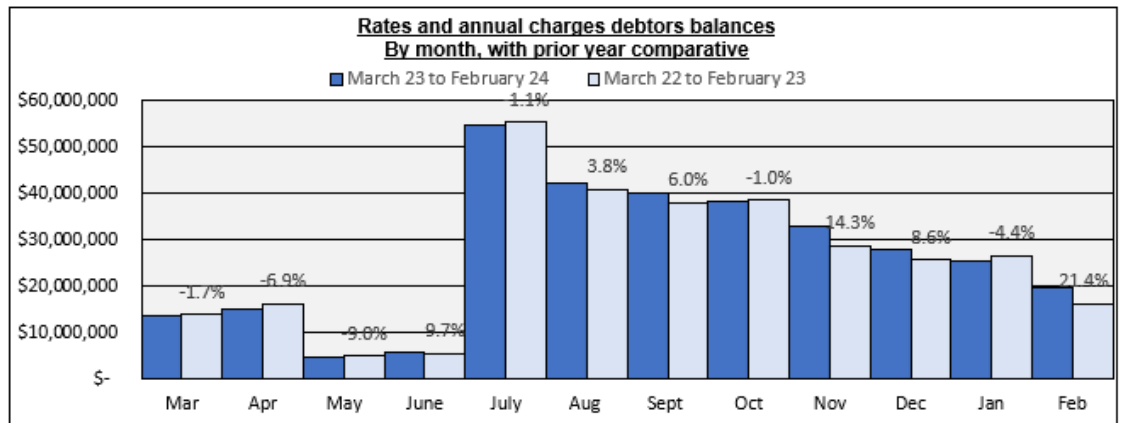
Reserve Name	Restriction	% Portfolio
Wastewater (incl developer contributions)	External	18.18%
Water (incl developer contributions)	External	15.32%
Section 7.11 Developer Contributions	External	13.40%
Domestic Waste Management	External	1.49%
Bonds and Deposits	External	3.88%
Specific Purpose Unexpended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

### *Debtors*

The following chart presents the month end balance of rates and annual charges debtors for the 12-month period ended 29 February 2024, and the percentage variance, in comparison to the prior year.

## 9.2 Investment Summary - February 2024

The balance, as at 29 February 2024, was 21.4% higher than the balance as at 28 February 2023. This increase in the balance is predominately due to the change in the timing of the water billing cycle, alongside balances outstanding increasing, which will continue to be monitored.



### A. Investments by Institution

Funds Invested With	Fossil Fuel Free / Green	Rating S&P	31 January \$'000	29 February \$'000	Quota %	% of Total
AMP Bank	No	BBB	6,000	6,000	20%	5.61%
Australian Unity	Yes	BBB+	3,000	5,000	20%	4.68%
Auswide Bank	Yes	BBB	7,000	7,000	20%	6.55%
Bank of Queensland	Yes	BBB+	2,000	6,000	20%	5.61%
BankVic	n/a	BBB+	5,000	5,000	20%	4.68%
Bendigo & Adelaide Bank	Yes	BBB+	1,000	1,000	20%	0.94%
Beyond Bank	Yes	BBB	2,000	2,000	20%	1.87%
Commonwealth Bank	No	AA-	17,000	10,000	20%	9.35%
Defence Bank Ltd	n/a	BBB	7,000	6,000	20%	5.61%
Great Southern Bank	Yes	BBB	4,000	4,000	20%	3.74%
IMB Bank	Yes	BBB	-	4,000	20%	3.74%
ING Bank (Australia) Ltd	No	A	17,000	17,000	20%	15.90%
Macquarie Bank	No	A+	1,600	1,600	20%	1.50%
MyState Bank Ltd	Yes	BBB+	2,000	2,000	20%	1.87%
National Australia Bank	No	AA-	23,000	15,000	20%	14.03%
Newcastle Perm Build Society	Yes	BBB	1,000	1,000	20%	0.94%
Suncorp Limited	Yes	A+	5,300	12,300	20%	11.51%
Westpac Bank Corp	No	AA-	5,000	2,000	20%	1.87%
<b>Total</b>			<b>108,900</b>	<b>106,900</b>		<b>100.0%</b>

Credit Rating Summary	Maximum Allowed		Value 31 January \$'000	Value 29 February \$'000	%	
	%	Value			31 January	29 February
as per the Investment Policy						
A- or Higher	100%	106,900	68,900	57,900	63.3%	54.2%
BBB	60%	64,200	40,000	49,000	36.7%	45.8%
<b>Total</b>			<b>108,900</b>	<b>106,900</b>	<b>100.0%</b>	<b>100.0%</b>

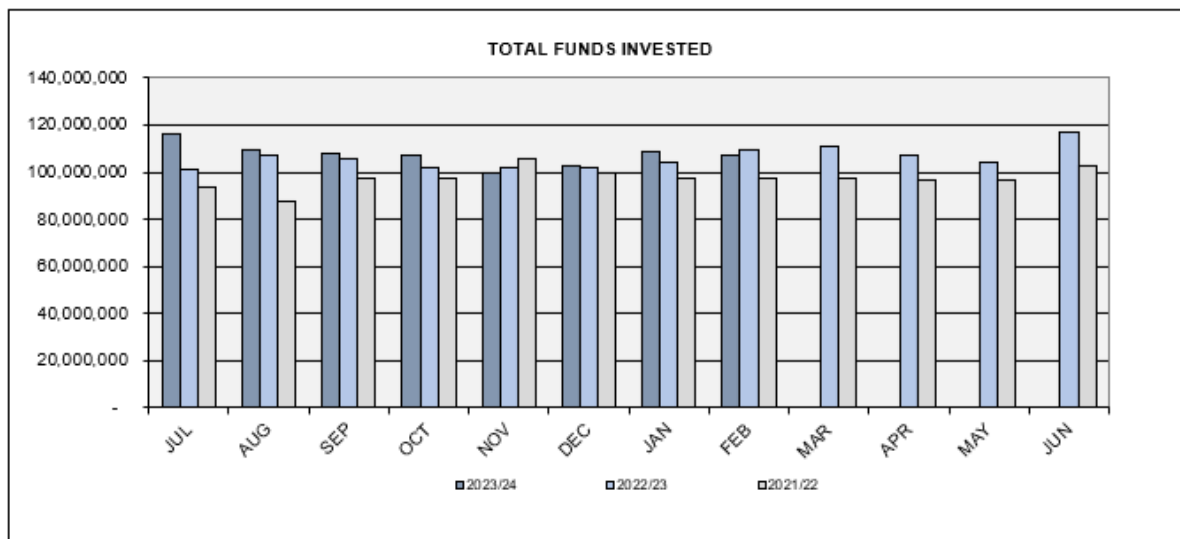
Liquidity Risk Parameters	Maximum Allowed		Value 31 January \$'000	Value 29 February \$'000	%	
	%	Value			31 January	29 February
as per the Investment Policy						
Term equal to 1 year or less	100%	106,900	101,000	99,000	92.7%	92.6%
Term > 1 year and < 3 years	40%	42,760	-	-	-	-
Term > 3 years	20%	21,380	7,900	7,900	7.3%	7.4%
<b>Total</b>			<b>108,900</b>	<b>106,900</b>	<b>100.0%</b>	<b>100.0%</b>

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

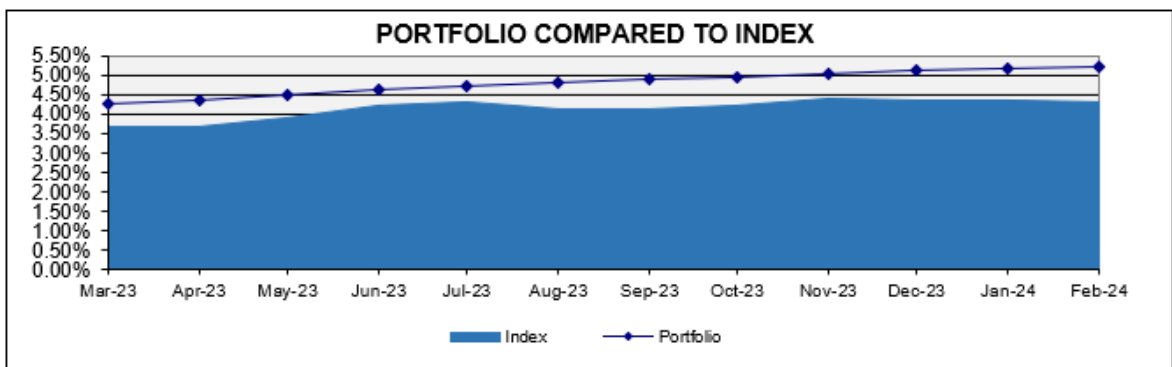
Environmental Classification	31 January		29 February	
	(\$'000)	(%)	(\$'000)	(%)
Fossil Fuel Aligned and Non-Green Investments	69,600	63.9	51,600	48.3
Fossil Fuel Free Investments	27,300	25.1	44,300	41.4
Green Investments	0	0.0	0	0.0
Not Classified	12,000	11.0	11,000	10.3
<b>Total</b>	<b>108,900</b>	<b>100.0</b>	<b>106,900</b>	<b>100.0</b>

In February 2024, seven investments matured totalling \$25.3m. Five of these investments were held with a fossil fuel aligned institution (\$23m) and one investment was held in not classified (\$1m). Seven new investments totalling \$23.3m were placed. Based on the available returns offered on the days that the investments were taken, five of these investments were with non-fossil fuel aligned institutions with a value of \$18.3m.

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



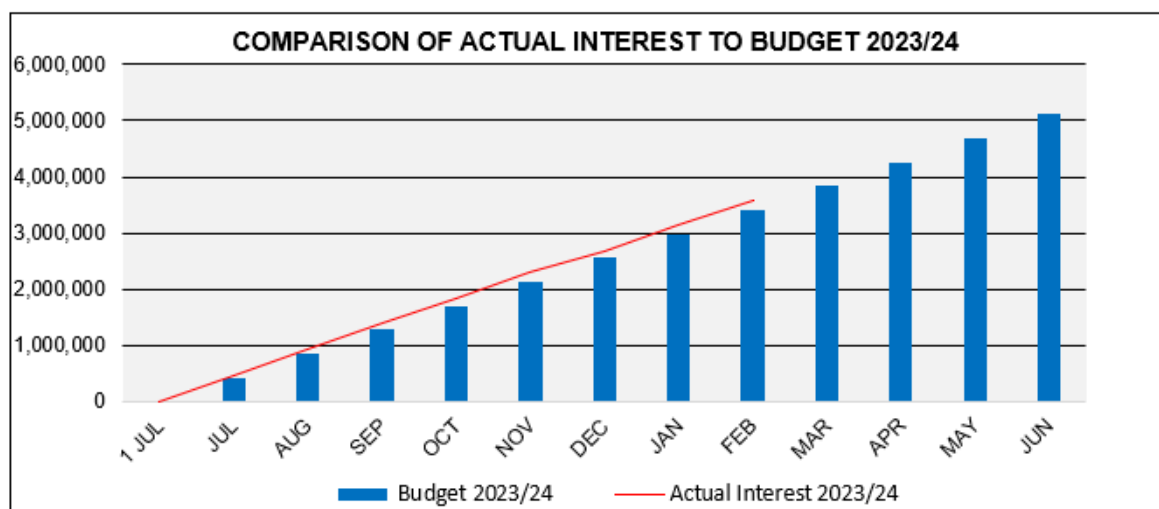
**D. Comparison of Portfolio Investment Rate to 90 Day BBSW**





## 9.2 Investment Summary - February 2024

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



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

### F. Investments held as of 31 January 2024 and 29 February 2024

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	31 January \$'000	29 February \$'000
08/02/19	Westpac Banking Corporation	FRN	5.46%	06/02/24	2,000	-
24/02/21	Suncorp-Metway Limited	FRN	4.83%	24/02/26	1,300	1,300
04/03/21	Newcastle Permanent Bld Society	FRN	5.00%	04/03/26	1,000	1,000
18/06/21	Bendigo & Adelaide Bank	FRN	5.01%	18/06/26	1,000	1,000
29/06/23	AMP Bank	FRN	6.01%	29/06/26	1,000	1,000
14/09/23	Macquarie Bank Limited	FRN	5.20%	14/09/26	1,600	1,600
20/02/24	Westpac Banking Corporation	FRN	5.20%	20/02/29	-	2,000
10/02/23	Westpac Banking Corporation	TD	4.84%	07/02/24	3,000	-
15/02/23	National Australia Bank	TD	4.90%	13/02/24	4,000	-
20/02/23	National Australia Bank	TD	4.89%	15/02/24	7,000	-
20/02/23	Commonwealth Bank of Australia	TD	4.91%	19/02/24	7,000	-
21/02/23	Defence Bank Ltd	TD	4.95%	28/02/24	1,000	-
28/02/23	Defence Bank Ltd	TD	5.00%	05/03/24	1,000	1,000
01/03/23	Defence Bank Ltd	TD	5.00%	12/03/24	2,000	2,000
01/03/23	National Australia Bank	TD	5.00%	12/03/24	3,000	3,000
03/03/23	Bank of Queensland	TD	5.06%	19/03/24	2,000	2,000
04/04/23	Auswide Bank	TD	4.90%	02/04/24	3,000	3,000
04/04/23	Auswide Bank	TD	4.90%	10/04/24	1,000	1,000
23/05/23	Great Southern Bank	TD	5.11%	21/05/24	2,000	2,000
30/05/23	MyState Bank Ltd	TD	5.10%	28/05/24	2,000	2,000
31/05/23	Great Southern Bank	TD	4.70%	04/06/24	2,000	2,000
21/06/23	Australian Unity Bank	TD	5.60%	18/06/24	2,000	2,000
27/06/23	Commonwealth Bank of Australia	TD	5.50%	25/06/24	3,000	3,000
28/08/23	Commonwealth Bank of Australia	TD	5.41%	26/08/24	3,000	3,000
29/08/23	Commonwealth Bank of Australia	TD	5.41%	27/08/24	4,000	4,000
27/09/23	National Australia Bank	TD	5.32%	23/09/24	2,000	2,000
05/10/23	ING Bank (Australia) Ltd	TD	5.27%	01/10/24	4,000	4,000

## 9.2 Investment Summary - February 2024

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	31 January \$'000	29 February \$'000
17/10/23	ING Bank (Australia) Ltd	TD	5.20%	15/10/24	2,000	2,000
01/11/23	ING Bank (Australia) Ltd	TD	5.47%	29/10/24	3,000	3,000
08/11/23	ING Bank (Australia) Ltd	TD	5.48%	06/11/24	2,000	2,000
08/11/23	Australian Unity Bank	TD	5.48%	12/11/24	1,000	1,000
29/11/23	Auswide Bank	TD	5.50%	26/11/24	1,000	1,000
05/12/23	BankVic	TD	5.47%	03/12/24	2,000	2,000
06/12/23	BankVic	TD	5.47%	03/12/24	2,000	2,000
12/12/23	Beyond Bank	TD	5.40%	10/12/24	2,000	2,000
19/12/23	AMP Bank	TD	5.25%	17/12/24	4,000	4,000
22/12/23	AMP Bank	TD	5.35%	19/12/24	1,000	1,000
02/01/24	ING Bank (Australia) Ltd	TD	5.32%	02/01/25	4,000	4,000
09/01/24	BankVic	TD	5.23%	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
13/02/24	IMB Bank	TD	5.05%	13/08/24	-	4,000
14/02/24	Suncorp-Metway Limited	TD	5.08%	10/07/24	-	7,000
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
28/02/24	Australian Unity Bank	TD	5.10%	27/02/25	-	2,000
	<b>Total</b>				<b>108,900</b>	<b>106,900</b>
	TD=Term Deposit; FRN=Floating Rate Note					

### RECOMMENDATION

That Council notes the report of banking and investments for February 2024

### Attachment(s)

Nil

### **9.3 Local Government Election - Ordinary Meeting Date September 2024**

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### **9.3 Local Government Election - Ordinary Meeting Date September 2024**

**Section** Governance

**Objective** Implications of the election date on Council's September 2024 Ordinary meeting.

---

#### **Background**

Council's Code of Meeting Practice sets the dates for Council's Ordinary meetings as the fourth Thursday of each month, except for December which is the second Thursday, with no meeting in January.

The Local Government Election is being held on Saturday 14 September 2024 with the Ordinary meeting scheduled for Thursday 26 September 2024.

The NSW Electoral Commission has advised that the close of receipt of completed postal votes is 13 days after election day. This means that postal votes can be received by the Commission up until 6 pm on Friday 27 September. Final counts and distributions of preferences will commence on Monday 30 September with the election results in each area progressively announced from Monday 30 September to Wednesday 2 October 2024.

This means that it is likely that there will not be an elected Council by the date of the September 2024 Ordinary meeting. This report seeks approval to cancel that meeting.

#### **Key Issues**

- September Ordinary meeting date
- Compliance with the Local Government Act

#### **Discussion**

Council's Ordinary meeting is scheduled to be held on Thursday 26 September 2024. Due to there being little chance of declared results and therefore no elected Council at this time, we will be required to cancel Council's September 2024 Ordinary meeting.

This means the last meeting of the current Council will be 22 August 2024.

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

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

#### **Community Engagement Strategy**

Council is required to place a public notice advising of changes to Ordinary Council meeting dates.

**Financial / Risk Considerations**

Section 365 of the Local Government Act states a Council is required to meet at least 10 times each year.

The removal of the September meeting does not impact on Council meeting this requirement.

There are no other financial or risk considerations involved with cancelling this meeting.

**Options**

The options are to either support the cancellation of the meeting or confirm an alternative date for the September 2024 Ordinary meeting.

Given that the declaration of results will occur in late September / early October, coupled with the Councillor induction program to commence in October, the most viable option is to cancel the September meeting and proceed with the October Ordinary meeting as scheduled.

This will allow the newly elected Council a period of approximately three weeks, to undertake a preliminary induction program, prior to their first Ordinary meeting.

**RECOMMENDATION**

That Council approves the cancellation of the September 2024 Ordinary meeting, scheduled for Thursday 26 September 2024, due to the date of the 2024 Local Government election.

**Attachment(s)**

Nil

## 9.4 Australia Day Review

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### 9.4 Australia Day Review

**Section** Communications

**Objective** To report on the annual review of the Australia Day ceremony to determine if Council wishes to amend the program or awards.

---

#### **Background**

Council coordinates an Australia Day event each year that traditionally includes a citizenship ceremony, awards program, guest address and music performances. This is a free public event that is promoted through Council's communication channels. The event format concludes with a morning tea for new citizens and award nominees.

Council's Australia Day event complies with the Australian Citizenship Ceremonies Code (the Code), issued by the Department of Home Affairs, by hosting a citizenship ceremony as part of Australia Day celebrations in accordance with the Australian Citizenship Act 2007 (Cth).

The Department of Home Affairs issued an update to the Code in December 2022 with the amendment now enabling councils to hold a citizenship ceremony three days before or after Australia Day.

The changes to the Code have been made in recognition of the need to provide flexibility to councils in planning their citizenship ceremonies and the higher operational costs involved in hosting an event on a public holiday.

The purpose of this annual report is to provide Council the opportunity to review the format and delivery of the event and the award categories.

#### **Key Issues**

- Award category review
- Event location and program
- Compliance with legislation

#### **Discussion**

##### *Australia Day Award Categories*

The current award categories include:

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

## 9.4 Australia Day Review

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The number of nominations received for each category for the past three years are as follows:

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

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

### *Event Location*

The 2024 event was held in the Lennox Head Cultural Centre (LHCC). The event delivery was not livestreamed this year, as this was previously funded from an NSW grant made available due to covid restrictions.

The 2024 event attendance was approximately 350, primarily comprised of award nominees, their partners, families, and group members, along with new citizens and their families and friends, and performers. It is estimated that approximately 300 attendees had a direct involvement in the event or were there to support friends and family involved in the ceremony.

The event was promoted in media such as the Lennox and Ballina Wave, Community Connect, local radio, local print press, and digitally via social media with boosted posts.

### *Event Program*

The Australia Day event, held from 9am to 11:30am, was led by Sandra Jackson as the MC. Aunty Julia Paden conducted the Welcome to Country, followed by the flag raising ceremony and the Australian National Anthem was performed by Georgia Quinn from the Ballina Players Theatre.

Seventeen new Australian citizens from the USA, Bolivia, UK, Italy, Thailand, Denmark, Brazil, Philippines, and Vietnam, were welcomed during the citizenship ceremony. This was followed by a performance by an ensemble from the Ballina Players Theatre.

Joel Taylor was announced as the 2024 Citizen of the Year by the 2023 Citizens of the Year, Rex and Di Farrell. The morning concluded with a dance performance by the Lennox Beach Line Dancers. Following the ceremony award nominees, new citizens and performers were invited to morning tea.

### *Australia Day Committee*

Council provides delegated authority to the Australia Day Committee, which consists of all Councillors to determine the award recipients. The Australia Day Committee was re-established at the 27 January 2022 Ordinary meeting, as part of the review of all Council committees. This Committee will need to be re-established following the September 2024 local government election.

### *Citizenship and Date*

The Department of Home Affairs issued a statement in December 2022 in relation to amendments to the Australian Citizenship Ceremonies Code. The announcement and changes to the Code provides flexibility to councils to host Australian citizenship ceremonies either three days prior to, or three days after Australia Day.

For 2025, 26 January falls on a Sunday. Three days prior is Thursday 23 January and three days after is Wednesday 29 January 2025.

Council resolved at the 24 February 2022 Ordinary Council meeting to conduct further consultation with the community including the First Nations community on attitudes towards the celebration of Australia Day, to inform future events and to provide a report back to Council.

At the time of writing this report, a partnership agreement is under development, involving consultation with key local Aboriginal organisations, including the Local Aboriginal Land Council, Jali. It is intended that this agreement will include establishment of appropriate protocols and approaches for Australia Day.

Broader community consultation has not been conducted to date, with the preference being to confirm feedback from the local Aboriginal organisations prior to undertaking a broad consultation.

The difficulty with the broad consultation is that there are strong opinions in respect to moving and retaining the ceremony on Australia Day and Council needs to be careful about commencing a broad consultation, without clear parameters (i.e. what are the options Council wishes to canvass).

At this time the preference is to wait for feedback from the Aboriginal community, recognizing that the next Australia Day will also be guided by the Council elected in September 2024.

A review of the delivery of Australia Day ceremonies within our region identified the following:

#### Byron Shire Council

In 2023, Byron Shire replaced their Australia Day Awards with a community awards program which is celebrated during Local Government Week in August.

Byron Shire Council held a Citizenship Ceremony on 29 January 2024.

#### Tweed Shire Council

In 2024, Tweed Shire Council hosted their Awards Ceremony and Citizenship Ceremony the day before Australia Day on 25 January.

## 9.4 Australia Day Review

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### Lismore City Council

In 2024, Lismore City Council celebrated Australia Day on 26 January with an Awards Ceremony and Citizenship Ceremony.

### Richmond Valley Council

In 2024, Richmond Valley Council celebrated Australia Day on 26 January with an Awards Ceremony and Citizenship Ceremony.

### Clarence Valley Council

The 2024 Clarence Valley Citizens of the Year Awards was held on 25 January 2024. The following changes were made to their program:

- Renamed from Clarence Valley Australia Day Awards to Clarence Valley Citizens of the Year Awards
- Moved from Australia Day (26 January) to 25 January in line with the National Australian of the Year Awards.

The event was combined with an Australian Citizenship Ceremony.

Given the varied community views on Australia Day, coupled with the upcoming Local Government elections scheduled in September 2024, the recommendation in this report remains consistent with the same event format and date as 2024.

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

The event relates to the Delivery Program Strategy:

CC2.1 - Create events and activities that promote interaction and education, as well as a sense of place.

CC2.2 - Encourage community interaction, volunteering, and wellbeing.

### **Community Engagement Strategy**

The 2024 event was the 43rd year of the Ballina Shire Australia Day Awards. An extensive promotional campaign inviting award nominations and attendance at the event was undertaken.

There has been no broad community consultation undertaken relating to changing the format or date.

### **Financial / Risk Considerations**

The cost for the 2024 Australia Day event was \$32,080.

Council received \$10,000 in funding from the National Australia Day Council (NADC). This additional funding was spent on venue hire, photography, catering, award winner gift hampers, and a new media wall.



## 9.4 Australia Day Review

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An analysis of the breakdown of expenditure costs identified that the additional cost incurred to hold this event on a public holiday is approximately \$7,900.

Council's Australia Day event must comply with the Australian Citizenship Ceremonies Code (the Code), issued by the Department of Home Affairs, by hosting a citizenship ceremony as part of Australia Day celebrations in accordance with the Australian Citizenship Act 2007 (Cth).

### Options

The options available relate to changing the Australia Day award categories, location, and date of the event.

#### Category

Given the consistently positive feedback received during the nomination process, it is recommended that the award categories be retained for 2025.

#### Location

The LHCC ensures attendee comfort, particularly on a warm January day, and enhances the overall event experience. The LHCC remains the preferred venue for the 2025 event. The redevelopment of the Alstonville Cultural Centre should result in that venue being suitable, once completed.

#### Date and Time

The amendment to the Australian Citizenship Ceremonies Code allows councils to host citizenship ceremonies three days prior or three days after Australia Day.

This flexibility enables Council to either continue holding the event on the Australia Day public holiday, as in previous years, or choose an alternate date in line with the amended Code.

Council also has the option to transition from a daytime to an evening event.

Exploring alternative dates and formats could potentially broaden the event's appeal and address potential audience concerns, although it could alienate others.

While efficiencies and familiarity with the current format support retaining the existing scheduling, there has been a steady decline in attendances in recent years.

Hosting the event on a public holiday does incur additional costs, accounting for 25 percent of the total expenditure.

The uncertainty of annual grant funding continuing from the National Australia Day Council (NADC) emphasises the importance of financial planning and contingency measures.

Importantly, if Council wishes to change the time and day of the event, it is not changing Australia Day, just the event to recognise Australia Day.

The recommendation that follows is for no change to the event date and timing.

**RECOMMENDATIONS**

1. That Council confirms the categories for the 2025 Ballina Shire Australia Day Awards are to remain unchanged, with citizen of the year selected from one of the categories as follows:
  - Young Citizen of the Year (30 years or under)
  - Senior Citizen of the Year (60 years or over)
  - Volunteer Award
  - Sports Award
  - Community Event of the Year
  - Arts and Cultural Award
  - Environmental Award
2. That Council confirms Sunday 26 January 2025 as the date for the 2025 Ballina Shire Australia Day Awards and Citizenship ceremony.
3. That Council host the 2025 Australia Day event at the Lennox Head Cultural Centre.

**Attachment(s)**

Nil

## **9.5 Tender - Surf Schools, Elite Surf Coaching and Stand-up Paddleboards**

### **9.5 Tender - Surf Schools, Elite Surf Coaching and Stand-up Paddleboards**

**Section** Open Spaces

**Objective** To report the outcomes of the tender evaluation for the Tender - Surf Schools, Elite Surf Coaching and Stand-up Paddleboards

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#### **Background**

The purpose of this tender is for the allocation of Surf School, Elite Surf Coaching (including coaching people with disabilities), and Stand-up Paddleboard Coaching sub-licences.

Tenders were called on 21 December 2023 and at the close of tenders on 15 February 2024, eight tender submissions were received.

This report outlines the results of the tender process.

#### **Key Issues**

- Comply with the Local Government (General) Regulation 2021.
- Award sub-licences to compliant, highly skilled applicants.

#### **Discussion**

The number of sub-licences available under the Commercial Activities on Public Land Policy is as follows:

- Surf Schools – five sub-licences
- Elite Surf Coaching – six sub-licences
- Stand-up Paddleboard Coaching – three sub-licences

Fifteen companies downloaded the documentation with tenders received from:

- Soul Surf School Pty Ltd
- Woman Explore Group Pty Ltd
- Terence Hannon T/A Kool Katz Learn to Surf
- Wilko Promotions Pty Ltd
- Lets Go Surfing Pty Ltd
- Ability Surf Pty Ltd
- David Rutter T/A Ballina Surf School
- Brooke Harris T/A Northern Rivers Paddleboarding

Tenderers were able to tender for one sub-licence in each category.

The sub-licences tendered for by each company/individual are as follows:

## **9.5 Tender - Surf Schools, Elite Surf Coaching and Stand-up Paddleboards**

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### **Surf Schools**

- Lets Go Surfing Pty Ltd (trading as Lets Go Surfing)
- Soul Surf School Pty Ltd (trading as Soul Surf School)
- Terence Hannon (trading as Kool Katz Learn to Surf)
- Woman Explore Group Pty Ltd (trading as Surf Getaways)

### **Elite Surf Coaching**

- Lets Go Surfing Pty Ltd (trading as Lets Go Surfing)
- Ability Surf Pty Ltd (trading as Ability Surf)
- Wilko Promotions Pty Ltd
- David Rutter (trading as Ballina Surf School)
- Woman Explore Group Pty Ltd (trading as Surf Getaways)

### **Stand-up Paddleboard Coaching**

- Lets Go Surfing Pty Ltd (trading as Lets Go Surfing)
- Brooke Harris (trading as Northern Rivers Paddleboarding)
- Woman Explore Group Pty Ltd (trading as Surf Getaways)

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

- The tenderer has a minimum \$20M Public Liability Insurance Policy
- The tenderer has in place a Workers Compensation Insurance Policy
- The tenderer has a Comprehensive Motor Vehicle Insurance policy (if transporting clients)
- The tenderer has the required qualifications for the sub-licence type as set out in the Tender Specifications

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

- |                        |     |
|------------------------|-----|
| • Safety systems       | 25% |
| • Capability           | 25% |
| • Relevant experience  | 25% |
| • Social and community | 25% |

All compliant tenderers have been assessed as preferred tenderers 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**

Surf schools and like activities using public beaches and waterways relates to Council's public land management and governance responsibilities.

### **Community Engagement Strategy**

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

### Financial / Risk Considerations

To ensure that the sub-licences are awarded based on experience and qualifications, it was resolved by Council in October 2023, that all successful tenderers will pay the same annual sub-licence fees dependent on the sub-licence type.

As these sub-licences are to be granted pursuant to Council's head-licence from the State Government, Council is required to pay 10% of the income from the sub-licences to the State Government.

The operation of the various disciplines is considered medium to high risk.

As part of the tender responses, tenderers were required to provide copies of relevant insurances and safety management systems.

### 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 all compliant tenderers for the following sub-licences.

### Surf Schools

- Lets Go Surfing Pty Ltd
- Soul Surf School Pty Ltd
- Terence Hannon (trading as Kool Katz Learn to Surf)

### Elite Surf Coaching

- Lets Go Surfing Pty Ltd
- Ability Surf Pty Ltd
- Wilko Promotions Pty Ltd
- David Rutter (trading as Ballina Surf School)

### Stand-up Paddleboarding

- Lets Go Surfing Pty Ltd

The remaining two Surf School, two Elite Surf Coaching, and two Stand-up Paddleboard Coaching sub-licences may be applied for separately.

Under the Commercial Activities on Public Land Policy, the General Manager has the delegation to award these vacant sub-licences.

## **9.5 Tender - Surf Schools, Elite Surf Coaching and Stand-up Paddleboards**

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For the tenderers that did not provide the mandatory items as part of the tender process, they may apply for any vacant sub-licences after this tender process is completed.

They will be required to meet the same criteria as set out in the tender to obtain a sub-licence.

### **RECOMMENDATIONS**

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

#### **Surf Schools**

- Lets Go Surfing Pty Ltd
- Soul Surf School Pty Ltd
- Terence Hannon

#### **Elite Surf Coaching**

- Lets Go Surfing Pty Ltd
- Ability Surf Pty Ltd
- Wilko Promotions Pty Ltd
- David Rutter

#### **Stand-up Paddleboarding**

- Lets Go Surfing Pty Ltd

for the Tender - Surf Schools, Elite Surf Coaching and Stand-up Paddleboards.

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

### **Attachment(s)**

1. Confidential Memorandum - Surf Schools, Elite Surf Coaching and Stand-up Paddleboard Coaching Sub-licences (Confidential)

## **9.6 Tender - Rock Revetment Works, North Creek and Richmond River**

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### **9.6 Tender - Rock Revetment Works, North Creek and Richmond River**

**Section** Project Management Office

**Objective** To report the outcomes of the tender evaluation for the Tender - Rock Revetment Works, North Creek and Richmond River

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#### **Background**

The works to be undertaken under this contract are Rock Revetment Works – North Creek and Richmond River.

During the 2022 flood event several sections of the rock revetment wall at Regatta Park and Commemoration Park were damaged. Multiple sinkholes were formed behind rock revetment walls adjacent to these parklands during the flood. The proposed works will rectify the areas which have failed and future proof the area from erosion.

The works also involve constructing a shared path along the foreshore within Commemoration Park. This pathway will improve the safety and amenity of the area.

Tenders were called on 29 January 2024 and at the close of tenders on 7 March 2024, six tender submissions were received.

This report outlines the results of the tender process.

#### **Key Issues**

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

#### **Discussion**

Thirty companies downloaded the documentation with tenders received from:

- Hazell Bros Pty Ltd
- Synergy Resource Management Pty Ltd
- GCE Contractors Pty Ltd
- Civilwise Pty Ltd
- Smith Plant Hire (NSW) Pty Ltd
- Durack Civil

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

## 9.6 Tender - Rock Revetment Works, North Creek and Richmond River

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

- Pricing Structure 55%
- Capability and Experience 30%
- Local and Community 15%

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

### Delivery Program Strategy / Operational Plan Activity

This project is included in Council's current Delivery Program and Operational Plan.

### Community Engagement Strategy

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

### Financial / Risk Considerations

Funding for this tender is sourced from the following grant funds:

Funding Source	Amount (\$ ex GST)
NSW Crown Land Flood Recovery Funding Program	\$1,090,000 (\$150,000 for Regatta Park Crown Reserve and \$940,000 for Kingsford Smith Crown Reserve)
Regional NSW - Community Assets Program	300,000

The total cost of this project is currently forecast at \$900,000 excluding GST.

The total cost of the preferred tender is \$808,582.46, excluding GST.

The grant funding also provides for other works on the crown reserves, including shelters, paths etc, which do not form part of this tender.

### 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:*

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

Based on the tender evaluation, it is recommended that Council accept the tender from Civilwise 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 Civilwise Pty Ltd for the Tender - Rock Revetment Works, North Creek and Richmond River for the total amount of \$808,582.46 (excluding GST).
2. That Council authorises the General Manager to sign the contract documents.

**Attachment(s)**

1. Confidential Memorandum - Rock Revetment Works, North Creek and Richmond River (Under separate cover) (Confidential)

## **9.7 Policy (Review) - Private Structures within Council Owned Waterways**

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### **9.7 Policy (Review) - Private Structures within Council Owned Waterways**

**Section** Commercial Services

**Objective** To review the Private Structures within Council Owned Waterways Policy.

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#### **Background**

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Private Structures within Council Owned Waterways policy.

Council first adopted this policy in July 2016. The policy was reviewed again in 2020.

The intent of the policy is to confirm the management arrangements for private waterways structures within Council owned waterways.

The policy applies to Ballina Quays Canal, Banyanda Lake and Endeavour Lake. These three waterways are classified as Council operational land under the provisions of the NSW Local Government Act 1993.

#### **Key Issues**

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

#### **Discussion**

The policy was reviewed in 2020 and that resulted in the removal of Council being listed as an interest in an owner's \$20 million public liability insurance product disclosure statement. This was designed to make it easier for owners to obtain that insurance.

This review of this policy in 2024 has identified only minor changes, as follows:

- Placing responsibility on the landowner (licensee) to undertake any minor excavation necessary to allow and maintain pontoon flotation, with Council consent, as it relates to Council operational land.
- Amend the requirements relating to development approval to make it a requirement prior to issue of a Construction Certificate rather than commencement of works, which is the standard process.
- Design and application documents to comply with requirements of Council's Development Control Plan to ensure this is consistent with Council's planning controls.

The changes have been marked in yellow.

## **9.7 Policy (Review) - Private Structures within Council Owned Waterways**

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

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

PE2.1 Provide an efficient and cost-effective regulatory environment for doing business.

### **Community Engagement Strategy**

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

Once this policy is on public exhibition Council will write to landholders that have frontage to the three waterways to advise of the review and to seek feedback.

### **Financial / Risk Considerations**

The development and consistent application of a policy that manages private structures within Council's owned waterways provides a valuable tool to ensure and demonstrate adherence to Council's legislative obligations.

The administration costs associated with processing of the applications is met by the application and licence fees (\$151 application fee and \$125 annual licence fee in 2023/24).

### **Options**

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

It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required. Typically, when Council writes directly to the licence holders, submissions are received.

### **RECOMMENDATIONS**

1. That Council adopts the amended Private Structures within Council owned Waterways Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.

### **Attachment(s)**

1. Policy (Review) - Private Structures within Council Owned Waterways [⇨](#)

## **10.1 River Street/Kerr Street, Ballina Intersection - Public Exhibition**

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### **10. Civil Services Division Reports**

#### **10.1 River Street/Kerr Street, Ballina Intersection - Public Exhibition**

<b>Section</b>	Infrastructure Planning
<b>Objective</b>	To confirm the preferred outcome to optimise traffic flow capacity for the River Street /Kerr Street, Ballina Intersection, following public consultation.

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#### **Background**

Council is progressively upgrading River Street and Kerr Street to dual lane configuration to accommodate increasing traffic volumes. The largest concentration of traffic flows is at the River Street / Kerr Street intersection. The capacity of this intersection is critical for the road network to accommodate and distribute increasing traffic flows over future years.

A proposal to improve the intersection capacity by providing dual eastbound lanes in River Street between Kerr Street and Grant Street was considered by Council on 27 July 2023, with approval to exhibit the preferred solution, being the River Street Lane Duplication (eastbound Kerr Street to Grant Street).

Nine responses were received, and this report considers those submissions, which are included as Attachment 1.

#### **Key Issues**

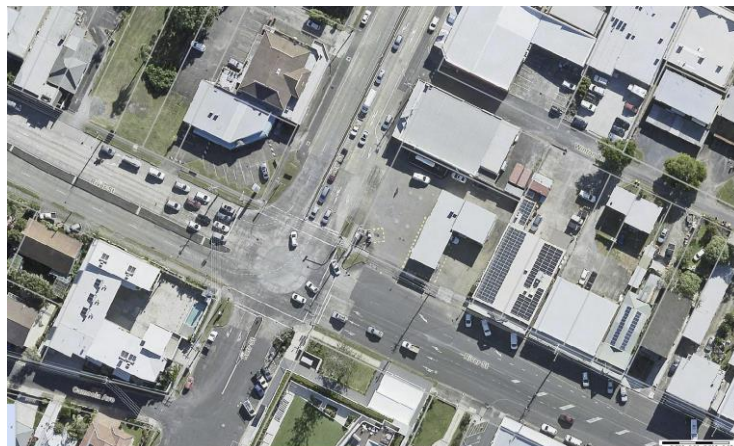
- Intersection capacity and optimisation.

#### **Discussion**

##### The Intersection

The intersection is a signal controlled, four-way configuration, as per the following aerial photo.

**Figure 1 - Aerial Photograph, Existing Intersection**



### Council Report - 27 July 2023

The report to the 27 July 2023 Ordinary meeting provided an analysis of the performance and capacity of the intersection and its ability to cope with existing and future increased traffic flows.

It also advised “the River Street eastbound through movement is inhibited as the inner lane is shared with a filtered right turn movement and the outer through lane being fed into a short (60 m) terminating lane in River Street (east) then being forced into a merge with the inner lane.”

To improve the intersection’s capacity, the report recommended extending the second (outer) eastbound lane in River Street (currently 60m short lane) for the full length to Grant Street to create dual lanes.

Eastbound River Street traffic flows further split at the Grant Street roundabout and beyond this intersection, volumes are reduced sufficiently in each street to be adequately accommodated in single lanes.

To accommodate the dual lanes, it would be necessary to reconfigure existing angle parking on the north side of River Street between Kerr Street and Grant Street to parallel parking, resulting in a reduction of parking spaces from 31 to 21 spaces, a loss of 10 car parking spaces.

This has caused concerns to adjacent businesses.

On 27 July 2023, Council resolved as resolved:

1. *That Council notes the contents of this report regarding the performance of the River Street and Kerr Street Intersection, including the expected deterioration in performance and the available options to improve this performance when required in the future.*
2. *That Council confirms its preference to proceed with the extension of the second (outer) eastbound lane in River Street from the River Street and Kerr Street intersection, with this extension being for the full length of River Street to Grant Street. This change will provide lane duplication for this part of River Street, and it will result in a need to convert the current angle parking in River Street, north side from Kerr Street to Grant Street to parallel parking.*
3. *That Council invite community feedback in respect of the proposal in point 2, with any feedback reported back to Council prior to a final decision being made. If there is no feedback, the proposal can be implemented accordingly.*

### The River Street Lane Duplication Proposal

The proposal includes the following:

- Provision of dual eastbound lanes in River Street between Kerr Street and Grant Street

## 10.1 River Street/Kerr Street, Ballina Intersection - Public Exhibition

- Providing space for the second lane by reconfiguring existing angle parking to parallel parking on the north side of the street. This results in parking spaces being reduced from 31 to 21 spaces.
- Associated line marking and signage.

Figure 2 – River Street Eastbound Lane Duplication, Kerr to Grant Street



### Public Exhibition

The proposal was publicly exhibited during November 2023 on Council's website.

## 10.1 River Street/Kerr Street, Ballina Intersection - Public Exhibition

The website provided a proforma response template, details and plans.

There were 173 visitors to the website exhibition and nine responses to the proposal.

### Responses from Adjacent Businesses

There were three responses from adjacent businesses, and all opposed the proposal. The following is a summary of issues / comments raised.

No	Issue	Staff Response
1	Changing parking will cripple business	Occupancy surveys on a variety of days, months and years indicate there will still be sufficient parking spaces to accommodate parking demand in this section of River Street
2	Reported loss of parking spaces is understated	Council's designers have measured the existing length of sections of kerb available for parking in this section of River Street allowing for existing breaks caused by driveways. To calculate the spaces available both currently and with the proposal, kerb lengths have been divided by the kerb length space requirements for both angle parking and parallel parking dimensions as designated in the Australian Standard "AS-2890.5 Parking facilities, Part 5:On-street parking".
3	Parking occupancy data gathered by Council and parking consultants was collected on inappropriate dates when occupancy was low	The CBD parking study data was collected on what was a typical weekday. It being a fine (no rain) Thursday in November clear of school holidays. Council data collection has been in response to concerns raised by adjacent businesses and timing of various Council meeting reports. The wide spread of dates and relative consistency of the occupancy data indicates the samples are reasonably representative.
4	Proposal will adversely impact on access and availability to customers	See response to 1.
5	The proposed parallel parking with loss of spaces and the proposal in the Ballina CBD parking study to change from 2H to unrestricted parking will damage businesses' ability to serve customers	In response to adjacent businesses concerns, Council resolved in February 2024 to not implement recommended changes to parking hours at this location. Time restrictions will remain at 2H and not the recommended unlimited time parking.
6	Understand needs of the town are ultimately greater than needs of half a dozen business but pleads for assistance for more car parks at greater frequency.	Noted and see above.

## 10.1 River Street/Kerr Street, Ballina Intersection - Public Exhibition

No	Issue	Staff Response
7	Dual lanes will increase safety risk by causing cars to race to beat each other to Grant Street	The distribution of traffic across dual lanes will provide more orderly eastbound movements. Further, vehicles will no longer need to do the difficult merge into a congested inner lane from the existing terminating short lane.
8	Need pedestrian crossing on River Street in this locality	There is a traffic lights controlled pedestrian crossing of River Street just east of Kerr Street. Just west of the Grant Street roundabout there is a pedestrian refuge type facility for crossing River Street. Given the low intensity of retail development on either side of River Street in this section, the demand for a mid-block crossing is relatively low at this time, compared to further east in River Street. This matter will be monitored to determine if a more formalised mid-block facility is warranted at some future date.

### Responses from Other Users of River Street

There were six responses from other users of River Street. Four responses supported the proposal and two were opposed.

No	Issue	Staff Response
9	Only support if the central island is landscaped and provided with a pedestrian crossing.	See No. 8 regarding pedestrian crossing. The central island is only proposed as a low cost painted median at this time. If there is a future reconstruction of this section of River Street, a landscaped island can be considered in the design.
10	Should ease traffic flow	Noted
11	Frequent issues merging back to one lane eastbound before Grant Street.	Noted
12	Ban eastbound right turn into Kerr Street.	This option has been considered, but not proceeded with at this time. Vehicles denied this movement could proceed to Grant Street roundabout to make a U Turn, then proceed back to Kerr Street and turn left. Other vehicles may leave River Street at Brunswick Street signals and proceed to Kerr Street south via Greenhalgh Street and Camoola Avenue. As well as causing a decrease in access to existing properties in Kerr Street (south), the banning of this movement, is likely to result in unacceptable volumes of traffic on narrow Camoola Avenue.
13	Ensure dedicated left turn from River into Grant Street can accommodate bus staying in single lane	Turning paths of heavy vehicles, including busses, are legally accommodated by use of all circulation lanes, and if necessary, crossing over circulating lane dividing lines. This already occurs at many roundabouts in the Ballina CBD.



## 10.1 River Street/Kerr Street, Ballina Intersection - Public Exhibition

No	Issue	Staff Response
	Ensure consistent minimum width of eastbound shoulder and lane between parked cars and through lane.	Noted. Conversion from angle parking to parallel parking provides the necessary road width to accommodate required minimum lane width.

### Parking Occupancy and Impact of Reduced Number of Parking Spaces

The following tables show parking occupancy data collected over several years for the north side of River Street between Kerr Street and Grant Street.

**Table 1 - Parking Occupancy Rates – Staff Collected Data 2022**

River Street North Side, Kerr Street to Grant Street, Parking Occupancy					
Day/Date	Time	Vehicles	Day/Date	Time	Vehicles
Monday 21/02/2022	0900	5	Wednesday 15/06/2022	0900	5
	1200	11		1200	22
	0400	11		0400	12
Wednesday 23/02/2022	0900	10	Friday 24/06/2022	0900	8
	1200	17		1200	18
	0400	9		0400	14
Friday 25/02/2022	0900	9	Monday 27/06/2022	0900	6
	1200	13		1200	13
	0400	6		0400	11

**Table 2 - Parking Occupancy Rates – Ballina CBD Parking Study**

River Street North Side, Kerr Street to Grant Street, Parking Occupancy Tuesday 29 November 2022 – Extract from Ballina CBD Parking Study					
Time	Vehicles	Time	Vehicles	Time	Vehicles
0800	6	1130	12	1500	9
0830	10	1200	13	1530	8
0900	13	1230	14	1600	12
0930	11	1300	13	1630	13
1000	16	1330	9	1700	11
1030	17	1400	13	1730	11
1100	17	1430	15		

**Table 3 - Parking Occupancy Rates – Staff Collected Data 2024**

River Street North Side, Kerr Street to Grant Street, Parking Occupancy					
Day/Date	Time	Vehicles	Day/Date	Time	Vehicles
Wednesday 13/03/2024	0900	7	Thursday 14/03/2024	0900	8
	1000	12		1100	19
	1100	15		1200	14
	1200	16		1300	17
	1300	12		1400	5
	1400	5			
	1500	7			

The proposed change of parking configuration from 45-degree angle parking to parallel parking is calculated to result in parking spaces on the north side of River Street between Kerr Street and Grant Street being reduced from 31 to 21 spaces, a loss of 10 spaces.

## **10.1 River Street/Kerr Street, Ballina Intersection - Public Exhibition**

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This loss of parking spaces can be justified as:

- The reconfiguration of parking enables dual eastbound lanes to be provided on River Street between Kerr Street and Grant Street to accommodate large and increasing volumes of traffic. These volumes split at the Grant Street roundabout into volumes that can be accommodated in the single lanes beyond the roundabout.
- Providing more eastbound capacity in River Street will ease congestion and queuing at the River Street/Kerr Street intersection.
- The parking occupancy data collected over several years, indicates that the parking spaces available in a parallel parking configuration on this section of River Street will be sufficient to accommodate parking demand on most days and times.

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

The optimisation of the River Street/Kerr Street intersection is consistent with Delivery Program Strategy EL3.3 '*Deliver responsive and efficient services*'.

### **Community Engagement Strategy**

The proposal to provide dual eastbound lanes in River Street between Kerr Street and Grant Street was publicly exhibited by Council in November 2023.

This report considers submissions and future actions.

### **Financial / Risk Considerations**

The proposed improvements to the River Street/Kerr Street intersection are of minimal capital cost to Council as only pavement marking, and limited signage changes are proposed.

Surveys of parking demand and occupancy indicate there is not likely to be a significant negative impact on adjacent businesses caused by the associated moderate decrease in parking space supply.

This low impact assessment is not supported by owners of adjacent businesses as demonstrated by their submissions.

### **Options**

This report proposes an opportunity to improve the function of the Kerr Street and River Street intersection by providing dual eastbound lanes in River Street between Kerr Street and Grant Street.

Whilst the proposal has community traffic flow/distribution benefits, the provision of dual lanes results in a loss of parking spaces and associated concerns by adjacent businesses.

## 10.1 River Street/Kerr Street, Ballina Intersection - Public Exhibition

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The options are:

### *Option 1 – Implement the Proposed Changes*

The proposed changes to the River Street / Kerr Street intersection and approach roads will improve traffic flows, ease congestion, and minimise queuing.

Under this option the second (outer) eastbound lane in River Street (currently a 60-metre short lane) would be extended for the full length to Grant Street intersection, including converting the current angle parking in River Street, north side from Kerr Street to Grant Street to parallel parking.

### *Option 2 – Defer any action until congestion and queuing becomes more critical*

If Council is concerned the loss of parking capacity is not justified currently, it is an option to defer implementing the proposal.

As traffic volumes increase over time, it is unlikely the proposal could be set aside completely.

Option 1 is recommended as it will provide immediate benefits to traffic flow and will provide more certainty for adjacent landowners and businesses regarding the ultimate road and parking configuration in this locality.

## **RECOMMENDATIONS**

1. That Council acknowledges the submissions as outlined in this report, and on balance, approves proceeding with the extension of the second (outer) eastbound lane in River Street from Kerr Street to Grant Street to improve traffic flow and reduce traffic congestion.
2. That Council notes that this change will provide lane duplication for this part of River Street and will result in a need to convert the current angle parking in River Street, north side from Kerr Street to Grant Street, to parallel parking.

## **Attachment(s)**

1. Submissions [⇒](#)

## **10.2 Water and Wastewater Development Servicing Plans - Re-exhibition**

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### **10.2 Water and Wastewater Development Servicing Plans - Re-exhibition**

<b>Section</b>	Water and Wastewater
<b>Objective</b>	To place the amended draft development servicing plans for drinking water and wastewater/recycled water infrastructure on public exhibition (re-exhibited).

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#### **Background**

At the 14 December 2023 Ordinary meeting, Council resolved as follows:

- 1. That Council endorses an amendment for inclusion in the draft Development Servicing Plans for Water Supply and Sewerage Services, being the addition of interim pump station and rising main works which will service the proposed Cumbalum Urban Release Areas A and B.*
- 2. That Council endorses an amendment to be developed for inclusion in the draft Development Servicing Plans for Water Supply and Sewerage Services being option 2 of the report to the June 2023 Council meeting to reduce the developer charge for the Wardell area to ensure that that charge is a similar amount to other developer charges in Ballina Shire.*
- 3. That a further report be presented to Council to consider the draft Development Servicing Plans for Water Supply and Sewerage Services, as amended, for re-exhibition.*

This report seeks Council approval to re-exhibit the amended Development Servicing Plans (DSPs) for Water Supply and Sewerage Services.

#### **Key Issues**

- Equitable and affordable DSP charges
- Provide infrastructure solutions for major urban development areas

#### **Discussion**

The draft Development Servicing Plans (DSPs) have now been amended in accordance with Council's resolution to include the additional works for Cumbalum Urban Release Area A and B and a cross subsidy to reduce the developer charge for the Wardell area.

In reviewing the calculation sheets to include the works, an error was found in the discount rate used to calculate the present value of post-1998 works. The rate used was 3% when it should have been 5%. The use of the correct rate has subsequently reduced the proposed developer charges significantly.

Copies of the updated plans are included as Attachments 1 and 2.

## 10.2 Water and Wastewater Development Servicing Plans - Re-exhibition

### ***Proposed Developer Charges***

Table 1 outlines the current and proposed developer charges (\$2022/23) in the water supply and wastewater/recycled water DSPs.

### ***Audit of Compliance with the Guidelines***

Hydrosphere Consulting audited the previous draft DSPs and found that the Water Supply and Wastewater draft DSPs complied with the Guidelines for most of the checklist items.

Minor non-compliances related to information that is not required in the Model DSP provided in the Guidelines (but is noted as required in the checklist).

This did not substantially change the completeness of the DSP documentation. The audit report was provided as an attachment to the June 2023 Council report.

The amended DSPs have not been re-audited as there was no change in the methodology used to calculate the charges or the documentation of the plans.

This decision was taken after consultation with Hydrosphere as the auditor.

**Table 1 – Current and Proposed Developer Charges**

DSP Name	Areas Covered	Charge Levied 2022/23	Proposed Developer Charge
		2022/23 \$per ET	
Wastewater and Recycled Water	Ballina Heights/CURA A	3,508	5,981
	CURA B (Kinvara)		
	WUEA	15,365	
	Ballina (excl East Ballina)	5,509	
	Alstonville/Wollongbar		
	Lennox/Skennars Head/East Ballina		
	Wardell		
Drinking Water	WUEA	2,299	1,831
	Alstonville/Wollongbar	3,599	853
	CURA B (Kinvara)		
	Lennox/Skennars Head		
	Ballina	4,610	
	Ballina Heights/CURA A		
	Wardell		

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

Maintaining DSPs is an activity identified in Council's Delivery Program and Operational Plan.

## **10.2 Water and Wastewater Development Servicing Plans - Re-exhibition**

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The activity is HE3.3a *Maintain Water and Wastewater Developer Contribution Plans* which sits within the strategy HE3.3 *Match infrastructure with development to mitigate any impacts on the environment*.

### **Community Engagement Strategy**

The amended DSPs will be placed on exhibition for at least 30 working days in accordance with the Developer Charges Guidelines for Water Supply, Sewerage and Stormwater (2016).

### **Financial / Risk Considerations**

The DSPs aim to ensure Council has adequate funds to provide the infrastructure needed to accommodate expected population growth.

The works proposed in the plans have been included in Council's capital works program and the long-term financial plan incorporates the expected works.

By adopting the DSPs Council will be compliant with requirements of the:

- Developer Charges Guidelines for Water Supply, Sewerage and Stormwater, (2016)
- Water Management Act 2000
- Local Government Act 1993

### **Options**

This report considers the draft DSPs for Water Supply and Sewerage Services, amended to include the resolutions of the December 2023 Ordinary meeting.

The recommendation is to place on public exhibition the proposed amended DSPs, which contain a cross-subsidy to align the Wardell Wastewater Developer Charge with the rest of the Shire's charges.

### **RECOMMENDATION**

That Council approves the exhibition of the amended draft Development Servicing Plan for Water Supply and the amended draft Development Servicing Plan for Wastewater and Recycled Water Supply, as per Attachments 1 and 2 to this report, for public comment.

### **Attachment(s)**

1. Development Servicing Plan (DSP) for Wastewater and Recycled Water Supply - Revised Draft for March 2024 Council meeting (Under separate cover) ⇒
2. Development Servicing Plan (DSP) for Drinking Water Supply - Revised Draft for March 2024 Council meeting (Under separate cover) ⇒

### **10.3 Policy (Review) - Street Light Shielding**

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#### **10.3 Policy (Review) - Street Light Shielding**

<b>Section</b>	Engineering Works
<b>Objective</b>	To review the Street Light Shielding Policy.

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#### **Background**

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

Council first adopted this policy in November 2012, and it was last reviewed in 2020.

The policy sets out an application and approval process to respond to requests to install street light shields. This process balances the interest of some residents who desire to reduce the impact of lighting on their property against the broader interest of ensuring appropriate levels of pedestrian safety and security.

#### **Key Issues**

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

#### **Discussion**

Council receives requests to shield street lights from time to time. In most cases, an assessment will determine that the street lighting meets the requisite standards, and no changes are recommended.

Advice from our insurer is that the Council needs to justify and document any decision that is a departure (reduction) from the standard and reduces the light available to pedestrians, as this decision could expose Council to a liability claim from a slip, trip or fall incident.

The adoption of a policy has assisted staff to explain to customers that we have considered this issue and have a consistent, equitable approach to inquiries.

The review of this policy has concluded that it is still contemporary and reflects current legislation. Accordingly, no changes are proposed other than some minor grammatical edits. A copy of the revised policy is included as Attachment 1 to this report.

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

This policy supports Delivery Program Strategy EL2.3 Provide Effective Risk and Safety Practices. The relevant Operational Plan Activity is EL2.3d Risk Management practices align with insurer and legislative requirements.

### Community Engagement Strategy

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received, they can be reported back to Council however there will not be a need for any further report if there is no public comment.

### Financial / Risk Considerations

The intention of the policy is for Council to maintain compliance with the requirements of the Australian Standards for public lighting on the road network when dealing with obtrusive lighting complaints.

The Council needs to take care when modifying street lighting. In the event of a public liability claim, the decision to reduce the available street lighting will be examined in respect of Council's potential negligence.

In respect of financial implications, the policy says it will be the responsibility of the applicant to meet the costs to install a shield. The costs to install a shield are estimated to be \$500-\$700.

The Council will incur costs when it is installing a new light and the budget allocation for each project will accommodate the cost of the shield. The applicant may also need to meet the costs of preparing a risk assessment.

The occasions where Council elects to install a shield are not expected to be frequent and the general streetlight operations and maintenance allocations will be able fund those needs.

### Options

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

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

### RECOMMENDATIONS

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

### Attachment(s)

1. Policy (Review) - Street Light Shielding [⇨](#)



## **10.4 Policy (Review) - Building Over or Adjacent to Council Assets**

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### **10.4 Policy (Review) - Building Over or Adjacent to Council Assets**

**Section** Infrastructure Planning

**Objective** To review the Building Over or Adjacent to Council Assets Policy.

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#### **Background**

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Building Over or Adjacent to Council Assets policy.

The policy provides direction in respect of construction over or adjacent to Council's gravity and rising sewer mains, water mains and stormwater assets.

The primary objective is to ensure Council's assets are protected and suitable access is provided for future repairs.

Council first adopted this policy in May 2008, and it was last reviewed in March 2020.

#### **Key Issues**

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

#### **Discussion**

The policy is still considered to be contemporary and responds well to Council's interests. A copy of the policy is attached to the report.

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

This policy supports Delivery Program outcome:

- EL2 – Council's Finances and Assets are Well Managed.

#### **Community Engagement Strategy**

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

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

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

Council's infrastructure is located on both public and private land. Easements are provided in many situations, however there is infrastructure not contained within easements.

## **10.4 Policy (Review) - Building Over or Adjacent to Council Assets**

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In both cases, the protection of assets helps protect property (public and private) and infrastructure by minimising damage and additional maintenance costs.

### **Options**

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

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

### **RECOMMENDATIONS**

1. That Council adopts the amended Building Over or Adjacent to Council Assets Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.

### **Attachment(s)**

1. Policy (Review) - Building Over or Adjacent to Council Assets [⇨](#)

## 11.1 Notice of Motion - Third Village

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### 11. Notices of Motion

#### 11.1 Notice of Motion - Third Village

**Councillor**

Cr Meehan

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I move

That Council include in the 2024/25 Operational Plan, an action to review Council's land management strategy, to assess the viability of a third village on the Alstonville Plateau to help address the current housing crisis and future housing needs.

#### **Councillor Comments**

The Ballina Shire Growth Management Strategy is part of Council's existing strategic planning framework. For both the Alstonville and Wollongbar areas, the LGMS (Local Growth Management Strategy) contains a strategic action to 'revisit the Third Plateau Village concept'.

Ballina Shire and surrounding LGAs are experiencing a housing crisis which has no end in sight; very high prices for land and homes, rental shortages and high rental prices are being experienced by all in our community.

Many young people and young families have great difficulty in entering the housing market. Older people who do not own their own home are under extreme financial pressure. Those who have been displaced by the 2022 floods have few available options for 'flood free' accommodation. The issues are many.

Ballina Shire Council has planned for new land and housing stock for many decades.

Largely, this has been confined to the coastal areas of Lennox Head, Skennars Head, Ballina Heights and Cumbalum. In all these locations land and home prices are at the top end of the scale for our Shire, due to coastal location or proximity. Also, the existing villages such as Lennox Head, have had to bear the brunt of urban expansion.

It is time for the 'Third Plateau Village' concept to be revisited and re-examined.

The concept was last examined by Council in 2000/2001 when potential sites were identified, technical information gathered and assessed, and a community consultation completed. The Council of that time resolved to discontinue the investigations but keep the Third Village concept as an option, subject to future population growth.

It should be re-examined now because:

- The Plateau provides flood-free land, off the Richmond River flood plain.

## 11.1 Notice of Motion - Third Village

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- Residential land and built homes on the Plateau are at a lower and more affordable price than closer to the coast.
- The Plateau provides a location between Ballina and Lismore. Land and homes availability there will support the people of both these LGAs.
- A new village can be strategically planned to provide a variety of land and housing types; residential blocks, medium density town houses and manor houses, work/live spaces etc. As well as commercial and service activities such as schools, pre-schools and sports facilities.

A third village on the Plateau would not threaten or change the current areas of Alstonville and Wollongbar. In fact, the current buffer zone, between and around these two urban areas, was created as part of the earlier work for the Third Village concept.

There are of course some significant related matters; the overlay of 'state significant farmland', the State's 'North Coast Regional Plan', land zonings, environmental considerations, and community consultation.

However, the current and ongoing housing crisis calls for Council to examine, investigate and liaise with the state and community about the concept.

This notice of motion does not attempt to suggest any specific site for a third village but calls for the concept to be put back on the table and examined as an option in Council's future Land Management Strategy. The specific purpose is to address the housing crisis being faced by current and future residents.

### **COUNCILLOR RECOMMENDATION**

That Council include in the 2024/25 Operational Plan, an action to review Council's land management strategy, to assess the viability of a third village on the Alstonville Plateau to help address the current housing crisis and future housing needs.

### **Attachment(s)**

Nil

## 11.2 Notice of Motion - Fire Ants

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### 11.2 Notice of Motion - Fire Ants

**Councillor**

Cr Eoin Johnston

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I move

That Council write to Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government seeking a Federal Government commitment to support the recommendations from the current Senate Inquiry on Red Imported Fire Ants in Australia, and particularly if there is a recommendation to provide additional funding, to ensure that Australia is in the best position possible to eradicate this invasive species.

The suggested funding should be applied to the nation as a whole and not be subject to political or boundary considerations.

#### **Councillor Comments**

It is acknowledged that the red imported fire ants are one of the world's worst invasive species and probably, if left unchecked, present a major threat to humans, livestock, pets and wildlife.

They are not limited to any climatic or geographical regions in Australia except for areas exposed to extremely cold conditions.

They arrived via merchant ships in Brisbane in 2001 and soon after in Gladstone.

There have been sporadic sightings of infestations across Southeastern Queensland and Northern NSW including the recent alarming discovery of nests at Wardell earlier this year.

Unfortunately, the funding to combat this threat has been 'drip fed' in response to respective outbreaks.

As recently as late 2023 the Invasive Species Council declared that: "This year the under-resourcing was nearly catastrophic. Fire ants' broke containment lines six times in six weeks in June and July this year .... within five kilometres of the NSW border."

It is submitted that funding to date has been inadequate. Council calls upon the Federal Government, in collusion with the States and Territories, to immediately address this crucial bio-security threat with substantial and adequate funding, without limitation.

#### **Staff Comments**

As per the Councillor notice of motion and comments there is currently a Federal Government Parliamentary Inquiry into the expected costs and impacts if red fire ants spread across Australia. The following is a link to that Inquiry:

[Red Imported Fire Ants in Australia – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au/Red-Imported-Fire-Ants-in-Australia)

**COUNCILLOR RECOMMENDATION**

That Council write to Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government seeking a Federal Government commitment to support the recommendations from the current Senate Inquiry on Red Imported Fire Ants in Australia, and particularly if there is a recommendation to provide additional funding, to ensure that Australia is in the best position possible to eradicate this invasive species.

The suggested funding should be applied to the nation as a whole and not be subject to political or boundary considerations.

**Attachment(s)**

Nil

**12. Advisory Committee Minutes**

**12.1 Finance and Facilities Committee Minutes - 13 March 2024**

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**Attendance**

Crs Sharon Cadwallader (Mayor - in the chair), Kiri Dicker (joined on-line at 4.22pm), Simon Chate (on-line), Eoin Johnston, Stephen McCarthy, Eva Ramsey and Rodney Bruem.

Paul Hickey (General Manager), John Truman (Director, Civil Services Director), Matthew Wood (Director, Planning and Environmental Health Division), Caroline Klose (Director, Corporate and Community Division), Linda Coulter (Manager Financial Services) and Sandra Bailey (Secretary) were in attendance.

There were two people in the gallery at this time.

**1. Acknowledgement of Country**

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

**2. Apologies**

Apologies were received from Cr Phillip Meehan, Cr Jeff Johnson and Cr Nigel Buchanan.

**RECOMMENDATION**

(Cr Eoin Johnston/Cr Eva Ramsey)

That such apologies be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Jeff Johnson, Cr Nigel Buchanan and Cr Phillip Meehan

**3. Declarations of Interest**

Nil

**4. Deputations**

- **Derek Audus, Rotary Satellite Club** – spoke in favour of Item 5.3 – Waste Operations – Long Term Financial Plan and in favour of an automated recycling facility.

**Change in Order of Business**

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Eva Ramsey)

That the Committee change the order of business to deal with the item as per the Deputation received.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Jeff Johnson, Cr Nigel Buchanan and Cr Phillip Meehan

a.

**5. Committee Reports**

**5.3 Waste Operations - Long Term Financial Plan**

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Eva Ramsey)

1. That Council endorses the draft fees and charges and Landfill and Resource Management and Domestic Waste Management long term financial plans, as per the Attachments 1, 2 and 3 to this report, for exhibition in the draft 2024/25 to 2027/28 Delivery Program and Operational Plan.

2. That Council investigate options for a bulk return and earn scheme in Ballina Shire, including a Council managed operation.

b.

Cr Kiri Dicker joined the meeting on-line at 04:22 pm.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Nigel Buchanan and Cr Phillip Meehan

**5.1 North East Weight of Loads Group (NEWLOG)**

**RECOMMENDATION**

(Cr Eoin Johnston/Cr Stephen McCarthy)

That Council endorses the draft NEWLOG budget for 2024/25, as per Attachment 1 to this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Nigel Buchanan and Cr Phillip Meehan



5.2 **Rating Structure - 2024/25**

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Eoin Johnston)

1. That for the draft 2024/25 Operational Plan, Council approves the application of a base rating structure, which applies the following principles:
  - a) Marginally less than 50% of the rate income for the residential category of properties being generated from the base amount
  - b) Business, farmland and mining categories to have the same base amount as the residential base amount
  - c) A total of 18.85% income from the rate yield to be sourced from the business category properties
  - d) Farmland rate in the dollar is approximately 89% of the residential rate in the dollar
  - e) The mining category rate in the dollar to be set as the same rate as the business category (currently no mining category properties in the shire).
2. That Council notes the indicative figures for this rating structure for the 2024/25 rating year, are as per Tables Eight and Nine of this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Nigel Buchanan and Cr Phillip Meehan

5.4 **Water Operations - Long Term Financial Plan**

**RECOMMENDATION**

(Cr Stephen McCarthy/Cr Rodney Bruem)

That Council endorses the annual charges, as per the following table, as well as the long-term financial plan, as per Attachments 1, 2 and 3 to this report, for the Water Operations, for exhibition in the draft 2024/25 to 2027/28 Delivery Program and Operational Plan.

<b>Charge Type</b>	<b>2023/24</b>	<b>2024/25</b>	<b>% Increase</b>
Water Access Charge 20mm meter	236	250	5.9
Water Consumption under 350kl	2.66	2.82	6.0
Water Consumption over 350kl	3.99	4.23	6.0
Vacant Land Charge	236	250	5.9

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Nigel Buchanan and Cr Phillip Meehan

**5.5 Wastewater Operations - Long Term Financial Plan**

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Stephen McCarthy)

1. That Council endorses the annual charges, as per the following table, as well as the long term financial plan, as per Attachments 1, 2 and 3 to this report, for the Wastewater Operations, for exhibition in the draft 2024/25 to 2027/28 Delivery Program and Operational Plan.

<b>Charge Type</b>	<b>2023/24 \$</b>	<b>2024/25 \$</b>	<b>% Increase</b>
Residential Availability Charge	1,063	1,074	1.0
Vacant Land Charge	803	811	1.0
Non-Residential Usage Charge	2.71	2.74	1.0
Non-Residential Access Charge	Variable based on meter size		
Recycled Water	80% of potable water step 1		

2. That Council notes the inclusion of a non-compulsory dividend from Wastewater Operations to the General Fund, with a report to be provided back to Council prior to adoption of the 2024/25 to 2027/28 Delivery Program and Operational Plan, confirming whether Council meets requirements to include this dividend.

Cr Eva Ramsey left the meeting at 05:04 pm.

FOR VOTE - Cr Sharon Cadwallader, Cr Kiri Dicker, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Rodney Bruem  
AGAINST VOTE - Cr Simon Chate  
ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Nigel Buchanan, Cr Eva Ramsey and Cr Phillip Meehan

**MEETING CLOSURE**

5.07pm

**RECOMMENDATION**

That Council confirms the minutes of the Finance and Facilities Committee meeting held 13 March 2024 and that the recommendations contained within the minutes be adopted.

**Attachment(s)**

Nil

## 13.1 Mayoral Meetings

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### 13. Reports from Councillors on Attendance on Council's behalf

#### 13.1 Mayoral Meetings

**Councillor** Sharon Cadwallader

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Activities I have attended, or propose to attend, as at the time of writing this report, since the February 2024 Ordinary meeting are as follows:

<b><u>Date</u></b>	<b><u>Meeting</u></b>
3 March	World Wildlife Day morning tea - Northern Rivers Wildlife Hospital
5 March	Emmanuel Anglican College Foundation Day Celebration
7 March	Ballina Byron Gateway Airport Runway Upgrade Opening Event
7 March	Probus Club of Lennox Head guest speaker
8 March	Zonta International Women's Day breakfast
12 March	Public citizenship ceremony
12 March	Resilient Homes Program Property Homes Update - Ballina LGA
12 March	Country Mayors Association - virtual update on Port of Newcastle
12 March	A Ward Committee Meeting
13 March	2024 Seniors Festival Concert
13 March	Brookfarm operations meeting
13 March	Finance and Facilities Committee meeting
13 March	Cr Briefing - Alstonville Agricultural Society DA 2023/504
14 March	Business NSW Northern Rivers Economic Breakfast
14 March	C Ward Committee Meeting
14 March	NRCG Exhibition Launch
15 March	Alstonville Wollongbar Chamber of Commerce meeting
15 March	Ballina Players Opening Night of 'Are You Being Served'
17 March	Ballina Crime Prevention Community Meeting
17 March	Wardell St Patricks Day Pop-Up-Pub
18 March	Australian Coastal Councils Association Inc (ACCA) meeting
18 March	U3A 30 years of operation celebration
18 March	Northern Rivers Community Leaders Forum - Mayors and MPs
18 March	NRJO meeting in advance of Visioning Workshop
18 March	B Ward Committee
19 March	Ballina Shire Audit Risk and Improvement Committee meeting
19 March	Lennox Head Market operations meeting
20 March	Rous County Council workshop
20 March	Public Art Advisory Panel meeting
21 March	Critical Response Kits Media Launch
21 March	Regional Community Defib Project discussion
21-22 March	Country Mayors Association meetings
22 March	Novaskill Excellence Awards
25 March	NRJO Vision for the Region and Disaster Adaptation meeting
26 March	Australian and NZ Short Term Rental Accom Assoc meeting
26 March	Pearces Creek Bridge opening with Lismore Council and TfNSW
26 March	Annual Cluster Meeting of Northern District Men's Shed Association
26 March	Meeting with Tamara Smith MP
26 March	Cr Briefing - Air Services Australia - Aerodrome control services
27 March	NSW Productivity Commission workshop
28 March	Ordinary meeting

#### **RECOMMENDATION**

That Council notes the contents of the report on Mayoral meetings.

**Attachment(s)** - Nil

14. Confidential Session

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**14. Confidential Session**

Nil Items